

Indiana Dental and Dental Hygiene Licensure Statutes and Rules

A Compilation from the Indiana Code and Indiana Administrative Code

2006 Edition #1



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DENTAL HYGIENIST PRACTICE ACT**

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DENTAL PRACTICE ACT**

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**TITLE 828 IAC
RULES OF THE INDIANA STATE BOARD OF DENTISTRY**

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**TITLE 410 IAC 1-3 AND 1-4
RULES ON UNIVERSAL PRECAUTIONS AND INFECTIOUS WASTE**

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INDIANA STATE BOARD OF DENTISTRY

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FIC 25-13
ARTICLE 13. DENTAL HYGIENISTS

IC 25-13-1

Chapter 1. Regulation of Dental Hygienists by State Board of Dentistry

IC 25-13-1-1 Short Title

Sec. 1. This chapter may be known and cited as The Dental Hygienist Act of Indiana.
(Formerly: Acts 1945, c. 90, s. 1.) As amended by Acts 1982, P.L. 154, SEC. 46.

IC 25-13-1-2 Definitions

Sec. 2. As used in this article:

(a) "Dental hygienist" means one who is especially educated and trained in the science and art of maintaining the dental health of the individual or community through prophylactic or preventive measures applied to the teeth and adjacent structures.

(b) "License" means the license to practice dental hygiene issued by the state board of dentistry to dental hygienist candidates who satisfactorily pass the board's examinations.

(c) "Board" means the state board of dentistry established by IC 25-14-1.

(d) "Proprietor dentist" means a licensed dentist who is the owner and operator of the dental office in which he practices the profession of dentistry and who employs at least one (1) dentist or dental hygienist to supplement his operation and conduct of his dental office.

(e) "Employer dentist" means a proprietor dentist who employs at least one (1) dental hygienist to supplement his dental service to his clientele.

(f) "Referral" means a recommendation that a patient seek further dental care from a licensed dentist, but not a specific dentist.

(g) "Screening" means to identify and assess the health of the hard or soft tissues of the human oral cavity.

(h) "Public health setting" means a location, including a mobile health care vehicle, where the public is invited for health care, information, and services by a program sponsored or endorsed by a governmental entity or charitable organization.
(Formerly: Acts 1945, c. 90, s. 2; Acts 1971, P.L. 371, SEC. 1.) As amended by Acts 1981, P.L. 222, SEC. 109; P.L. 185-1991, SEC. 1; P.L. 24-1999, SEC. 7.

IC 25-13-1-3 Necessity of license

Sec. 3. Except as otherwise provided in this chapter, it is unlawful for any person to practice dental hygiene in Indiana without a license from the board authorizing that person to practice dental hygiene in this state.
(Formerly: Acts 1945, c. 90, s. 3.) As amended by Acts 1981, P.L. 222, SEC. 110.

IC 25-13-1-4 License; applications; examinations; fees; appearance before board by applicant

Sec. 4. (a) Any person desiring to practice dental hygiene in Indiana must procure from the board a license to practice dental hygiene. To procure a license, the applicant must submit to the board proof of graduation from an institution for educating dental hygienists that is approved by the board and other credentials

required by this chapter, together with an application on forms prescribed and furnished by the board. Each applicant must pay to the board an application fee set by the board under section 5 of this chapter at the time the application is made and must pass an examination satisfactory to the board. For those applicants who fail to pass an initial examination, subsequent examinations may be had before the board upon payment of a fee set by the board under section 5 of this chapter for each subsequent examination. The board may establish under section 5 of this chapter additional requirements as a prerequisite to taking an examination for any applicant who has failed the examination two (2) or more times. Application fees are not refundable.

(b) An applicant described under subsection (a) shall, at the request of the board, make an appearance before the board.
(Formerly: Acts 1945, c. 90, s. 4; Acts 1971, P.L. 371, SEC. 2.) As amended by Acts 1981, P.L. 222, SEC. 111; Acts 1982, P.L. 113, SEC. 46; P.L. 169-1985, SEC. 39; P.L. 152-1988, SEC. 10; P.L. 48-1991, SEC. 24.

IC 25-13-1-5 Powers and duties of board

Sec. 5. (a) The board shall enforce this chapter.

(b) The board may adopt rules consistent with this chapter and with IC 25-14-1 necessary for the proper enforcement of this chapter, the examination of dental hygienists, and for the conduct of the practice of dental hygiene.

(c) The board may utilize a dental hygienist education program's accreditation by the Commission on Dental Accreditation of the American Dental Association as evidence that the program has met all or part of the standards for dental hygienist education programs established by the board.
(Formerly: Acts 1945, c. 90, s. 5.) As amended by Acts 1981, P.L. 222, SEC. 112; P.L. 354-1989(ss), SEC. 1.

IC 25-13-1-6 Qualifications of Applicant

Sec. 6. When applying to the board for examination, the applicant must submit an application and the applicant's credentials, except for proof of the applicant's graduation from an institution for educating dental hygienists, in the form and manner prescribed by the board at least forty-five (45) days prior to the examination date. The applicant must submit proof of the applicant's graduation at least seven (7) days before the examination date. The applicant:

(1) must not have been convicted of a crime that has a direct bearing on the applicant's ability to practice competently; and

(2) must be a graduate of a school for dental hygienists that:

(A) is accredited by the Commission on Dental Accreditation of the American Dental Association;

(B) is recognized by the board; and

(C) requires a formal course of training of not less than two (2) years of eight (8) months each.

(Formerly: Acts 1945, c. 90, s. 6; Acts 1963, c. 112, s. 1.) As amended by Acts 1981, P.L. 222, SEC. 113; Acts 1982, P.L. 113, SEC. 47; P.L. 169-1985, SEC. 40; P.L. 149-1987, SEC. 27; P.L. 185-1991, SEC. 2; P.L. 48-1991, SEC. 25; P.L. 24-1999, SEC. 8.

IC 25-13-1-6.1 Repealed

(Repealed by P.L. 33-1993, SEC. 74.)

IC 25-13-1-7 Dental hygienist applications

Sec. 7. The board's examination of applicants to practice dental hygiene shall be held at such time and place as may be called by the board for its examination of applicants for dental license. The dental hygienist examination shall include a practical clinical test, the applicant supplying the patient and necessary instruments and equipment, and such written or oral examination (or both) embracing the subjects taught in dental hygienist's schools as the board may require. The board may recognize licenses issued by other states as provided in section 17 of this chapter, and may recognize the examination of the national board of dental examiners, if it is consistent with the board's requirements.

(Formerly: Acts 1945, c.90, s.7; Acts 1963, c.112, s.2.) As amended by Acts 1981, P.L.222, SEC.114.

IC 25-13-1-8 License; issuance; duration; renewal

Sec. 8. (a) A license to practice dental hygiene in Indiana shall be issued to candidates who pass the board's examinations. The license shall be valid for the remainder of the renewal period in effect on the date the license was issued.

(b) Prior to the issuance of the license, the applicant shall pay a fee set by the board under section 5 of this chapter. A license issued by the board expires on a date specified by the health professions bureau under IC 25-1-5-4(k) of each even-numbered year. An applicant for license renewal must satisfy the following conditions:

(1) Pay the renewal fee set by the board under section 5 of this chapter on or before the renewal date specified by the health professions bureau in each even-numbered year.

(2) Subject to IC 25-1-4-3, provide the board with a sworn statement signed by the applicant attesting that the applicant has fulfilled the continuing education requirements under IC 25-13-2.

(3) Be currently certified or successfully complete a course in basic life support through a program approved by the board. The board may waive the basic life support requirement for applicants who show reasonable cause.

(c) If the holder of a license does not renew the license on or before the renewal date specified by the health professions bureau, the license expires and becomes invalid without any action by the board.

(d) A license invalidated under subsection (c) may be reinstated by the board up to three (3) years after such invalidation upon meeting the requirements under IC 25-1-8-6.

(e) If a license remains invalid under subsection (c) for more than three (3) years, the holder of the invalid license may obtain a reinstated license if the holder meets the following requirements:

(1) Meets the requirements under IC 25-1-8-6.

(2) Passes an examination on state and federal laws that are relevant to the practice of dental hygiene as determined by the board.

(3) Has been continuously engaged in the practice of dental hygiene from the date the holder's license was invalidated through the date the holder applies for reinstatement.

(4) Other than failing to renew the license, has complied with this chapter and the rules adopted under this chapter during the time specified under subdivision (3).

(5) Complies with any other requirements established by the board under subsection (g).

The board may require the holder of an invalid license who files

an application under this subsection to appear before the board and explain why the holder failed to renew the license.

(f) If the lapse of time in revalidating the license continues beyond three (3) years, and the holder of the invalid license does not meet the requirements under subsection (e), the holder of the invalid license must apply for licensure under section 4 or 17 of this chapter. In addition, the board may require the holder of the expired license to pay all past due renewal fees and a penalty fee set by the board under section 5 of this chapter.

(g) The board may adopt rules under section 5 of this chapter establishing requirements for the reinstatement of a license that has been invalidated for more than three (3) years.

(h) The license to practice must be displayed at all times in plain view of the patients in the office where the holder is engaged in practice. No person may lawfully practice dental hygiene who does not possess a license and its current renewal.

(i) Biennial renewals of licenses are subject to the provisions of IC 25-1-2.

(Formerly: Acts 1945, c.90, s.8; Acts 1963, c.112, s.3; Acts 1971, P.L.371, SEC.3.) As amended by Acts 1981, P.L.222, SEC.115; Acts 1982, P.L.113, SEC.48; P.L.169-1985, SEC.41; P.L.149-1987, SEC.29; P.L.185-1991, SEC.3; P.L.179-1996, SEC.1; P.L.44-2000, SEC.2; P.L.269-2001, SEC.7.

IC 25-13-1-9 Repealed

(Repealed by Acts 1971, P.L.371, SEC.4.)

IC 25-13-1-10 Locations for practice of dental hygiene; exceptions to location and supervision requirements

Sec. 10. (a) A licensed dental hygienist may be employed to practice dental hygiene in Indiana in the following:

(1) The office of a legally practicing proprietor dentist.

(2) A dental school or dental hygiene school to teach and demonstrate the practice of dental hygiene.

(3) The dental clinic of any public, parochial, or private school or other institution supported by public or private funds in which the licensee is employed by the state department of health or any county or city board of health or board of education or school trustee or parochial authority or the governing body of any private school. However, institutional practice, other than dental hygiene instruction and dental prophylaxis for children up to and including grade 12 pupils at all times must be under the supervision of a licensed dentist.

(4) The dental clinic of a bona fide hospital, sanitarium, or eleemosynary institution duly established and being operated under the laws of Indiana in which the licensee is employed by the directors or governing board of such hospital, sanitarium, or institution. However, such practice must be under the supervision at all times of a licensed dentist who is a staff member of the hospital or sanitarium or a member of the governing board of the institution.

(5) The dental clinic of an industrial or a commercial establishment in which the licensee's services are under the supervision of a licensed dentist.

(b) A licensed dental hygienist may provide without supervision the following:

(1) Dental hygiene instruction and in-service training without restriction on location.

(2) Dental prophylaxis for children up to and including grade 12 if the dental hygienist is employed by any of the following:

- (A) The state department of health.
- (B) The department of education.
- (C) The elementary or secondary school where the services are provided.

(3) Screening and referrals for any person in a public health setting.

(Formerly: Acts 1945, c. 90, s. 10.) As amended by Acts 1981, P.L. 222, SEC. 116; P.L. 169-1985, SEC. 42; P.L. 155-1988, SEC. 4; P.L. 185-1991, SEC. 4; P.L. 2-1992, SEC. 766.

IC 25-13-1-11 Practice of dental hygiene; acts performed

Sec. 11. A person is deemed to be practicing dental hygiene within the meaning of this chapter who:

- (1) uses the titles "Licensed Dental Hygienist", "Dental Hygienist" or the letters "L.D.H." or "D.H." in connection with his or her name;
- (2) holds himself or herself out to the public in any manner that he or she can or will render services as a dental hygienist;
- (3) removes calcific deposits or accretions from the surfaces of human teeth or cleans or polishes such teeth;
- (4) applies and uses within the patient's mouth such antiseptic sprays, washes or medicaments for the control or prevention of dental caries as his or her employer dentist may direct;
- (5) treats gum disease; or
- (6) uses impressions and x-ray photographs for treatment purposes.

(Formerly: Acts 1945, c. 90, s. 11; Acts 1963, c. 112, s. 4; Acts 1971, P.L. 371, SEC. 5.) As amended by Acts 1981, P.L. 222, SEC. 117; P.L. 155-1988, SEC. 5.

IC 25-13-1-12 Exceptions

Sec. 12. Nothing in this chapter shall be interpreted or implied as operating to prevent:

- (1) a dentist who is duly licensed in Indiana;
- (2) a bona fide dental student while engaged in dental school extramural educational programs with a licensed dentist who is an affiliate faculty member of the dental school;
- (3) a duly licensed practitioner of medicine;
- (4) a legal practitioner of dentistry or of dental hygiene in any other state, while making a clinical demonstration before a dental society in Indiana; or
- (5) any commissioned dental officer in the regular United States armed services, United States Public Health Service, or United States Department of Veterans Affairs, while engaged in the discharge of official duties in Indiana; from performing such services for health preservation, restoration, or diagnosis as are customarily within the field of their respective professional practices.

(Formerly: Acts 1945, c. 90, s. 12; Acts 1963, c. 112, s. 5.) As amended by Acts 1982, P.L. 154, SEC. 47; P.L. 169-1985, SEC. 43; P.L. 1-1990, SEC. 251.

IC 25-13-1-13 Repealed

(Repealed by Acts 1981, P.L. 222, SEC. 296.)

IC 25-13-1-14 Repealed

(Repealed by Acts 1981, P.L. 222, SEC. 296.)

IC 25-13-1-15 Procedure for review of board's action

Sec. 15. Any licensee, or applicant for a license, aggrieved by the action of the board shall have the right of review of the board's actions thereon under the procedure provided in IC 4-21.5.

(Formerly: Acts 1945, c. 90, s. 14 1/2; Acts 1963, c. 112, s. 7.) As amended by Acts 1982, P.L. 154, SEC. 48; P.L. 7-1987, SEC. 118.

IC 25-13-1-16 Repealed

(Repealed by Acts 1978, P.L. 2, SEC. 2570.)

IC 25-13-1-17 License by endorsement

Sec. 17. (a) The board may issue a license upon payment of the fee set by the board under section 5 of this chapter by an applicant who furnishes satisfactory proof that the applicant:

- (1) is a dental hygienist;
 - (2) is currently licensed in some other state that has licensing requirements substantially equal to those in effect in Indiana on the date of application;
 - (3) has been in satisfactory practice for at least two (2) years out of the preceding five (5) years;
 - (4) passes the law examination; and
 - (5) has completed at least fourteen (14) hours of continuing education in the previous two (2) years.
- However, all other requirements of this chapter must be met and the licensing requirements of the law and the board of the state from which such candidate comes may not be less than those prescribed in this chapter.

(b) An applicant who, before September 1, 1987, graduated from a school for dental hygienists that was recognized by the board at the time the degree was conferred and that required a course of training of only one (1) year, and who has completed:

- (1) one (1) year of internship in a dental clinic of an accepted hospital;
 - (2) one (1) year of teaching, after graduation, in a school for dental hygienists; or
 - (3) five (5) years of actual dental practice as a dental hygienist;
- may apply for licensure under this section if all other requirements of this section are met.

(Formerly: Acts 1945, c. 90, s. 16; Acts 1971, P.L. 371, SEC. 6.) As amended by Acts 1981, P.L. 222, SEC. 118; Acts 1982, P.L. 113, SEC. 49; P.L. 169-1985, SEC. 44; P.L. 149-1987, SEC. 30; P.L. 33-1993, SEC. 20; P.L. 75-2002, SEC 2

IC 25-13-1-17.1 Repealed

(Repealed by P.L. 33-1993, SEC. 74.)

IC 25-13-1-17.2 Inactive Status

This section is effective July 1, 2002

Sec. 17.2 (a) The board may classify a license as inactive if the board receives written notification from the dental hygienist that the dental hygienist will not practice as a dental hygienist in Indiana.

(b) The board may issue a license to the holder of an inactive license under this section if the applicant:

- (1) pays the renewal fee set by the board;
- (2) pays the reinstatement fee set by the board; and
- (3) meets the continuing education requirements set by the board.

As added by P.L. 75-2002, SEC. 3.

IC 25-13-1-18 Construction of certain terms

Sec. 18. Wherever the word "she," or the word "her" shall appear herein, they shall be construed also to mean "he" or "him" respectively.

(Formerly: Acts 1945, c. 90, s. 16a.)

IC 25-13-1-19 Liberal construction

Sec. 19. This chapter shall be deemed to be enacted in the interests of public health, safety and welfare, and its provisions shall be liberally construed to serve such interests.

(Formerly: Acts 1971, P.L.371, SEC.7.)

IC 25-13-2

Chapter 2. Continuing Education

IC 25-13-2-1 Applicability of chapter

Sec. 1. This chapter does not apply to the following:

(1) A dental hygienist who has held an initial license for less than two (2) years.

(2) A graduate student or a person in a resident program offered by an approved organization listed under section 2(15) of this chapter.

(3) A person who is determined by the board as being unable to practice dental hygiene due to a disability.

As added by P.L.185-1991, SEC.5.

IC 25-13-2-2 "Approved organization" defined

Sec. 2. As used in this chapter, "approved organization" means the following:

- (1) United States Department of Education.
- (2) Council on Post-Secondary Education.
- (3) National Dental Association.
- (4) American Dental Association.
- (5) Academy of General Dentistry.
- (6) National Dental Hygiene Association.
- (7) American Dental Hygiene Association.
- (8) Council on Hospital Dental Services.
- (9) American Medical Association.
- (10) Joint Commission on Accreditation of Hospitals.
- (11) Joint Commission on Healthcare Organizations.
- (12) Study clubs approved by the board.
- (13) Federal, state, and local government agencies.
- (14) International organizations approved by the American Dental Association.
- (15) A college or other teaching institution accredited by the United States Department of Education or the Council on Post-Secondary Education.

(16) A national, state, district, or local organization that operates as an affiliated entity under the approval of an organization listed in subdivisions (1) through (14).

(17) An internship or a residency program conducted in a hospital that has been approved by an organization listed in subdivisions (1) through (15).

(18) Any other organization or individual approved by the board.

As added by P.L.185-1991, SEC.5.

IC 25-13-2-3 "Continuing education course" defined

Sec. 3. As used in this chapter, "continuing education course"

means an orderly process of instruction designed to directly enhance the practicing dental hygienist's knowledge and skill in providing relevant dental hygiene services that is approved by an approved organization.

As added by P.L.185-1991, SEC.5.

IC 25-13-2-4 "License period" defined

Sec. 4. As used in this chapter, "license period" means the two (2) year period beginning on March 2, 1992, and every two (2) years thereafter.

As added by P.L.185-1991, SEC.5.

IC 25-13-2-5 "Study club" defined

Sec. 5. As used in this chapter, "study club" means a group of at least five (5) dental hygienists who do the following:

- (1) Organize for the purpose of scientific study.
- (2) Operate under the direction of elected officers.
- (3) Maintain written bylaws.
- (4) Conduct regular meetings.
- (5) Maintain written attendance records of all meetings.

As added by P.L.185-1991, SEC.5.

IC 25-13-2-6 Continuing education; credit hours

Sec. 6. (a) A dental hygienist must complete at least fourteen (14) credit hours in continuing education courses each license period.

(b) Credit hours may be applied under this section only toward the credit hour requirement for the license period during which the credit hours are earned.

(c) During a license period, a dental hygienist may not earn more than five (5) credit hours toward the requirements under this section for continuing education courses that relate specifically to the area of practice management.

(d) Not more than two (2) credit hours for certification programs in basic life support required under IC 25-13-1-8(b)(3) may be applied toward the credit hour requirement during each license period.

As added by P.L.185-1991, SEC.5. Amended by P.L.179-1996, SEC.2.

IC 25-13-2-7 Awarding of credit hours

Sec. 7. Credit hours under section 6 of this chapter must be awarded as follows:

(1) A course presented by a college under a regular curriculum is awarded one (1) credit hour for each lecture hour attended.

(2) A course not listed in subdivision (1) is awarded one (1) credit hour for each lecture hour and two (2) credit hours for each participation hour of the course.

(3) A speech, lecture, or other presentation by a dental hygienist is awarded two (2) credit hours if the following conditions are met:

(A) The presentation concerns a subject that would be suitable for a continuing education course.

(B) The subject of the presentation is eligible for credit only one (1) time, regardless of the number of times the subject is presented.

(C) The dental hygienist maintains a record of the time, place, and date of the presentation.

(D) The presentation is sponsored by an approved organization.

(E) Not more than four (4) credit hours are awarded to the dental hygienist under this subdivision during any license period.

(4) Attendance at a state, regional, or national meeting sponsored by an approved organization is awarded one (1) credit hour.

(5) Attendance at a meeting of a study club that uses films, audio cassettes, live presentations, or written materials sponsored by the American Dental Hygienist Association is awarded one (1) credit hour. However, a dental hygienist may not receive credit under this subdivision for more than four (4) credit hours during a license period.

(6) Attendance at a meeting of a study club featuring a guest speaker whose presentation concerns a subject suitable for a continuing education course is awarded one (1) credit hour for each hour attended.

(7) A home study course that is presented by an approved organization and meets the requirements under this subdivision is awarded the same number of credit hours given to courses provided by a college. If the approved organization does not assess credit hours to a course under this subdivision, the course is awarded one (1) credit hour for each hour of study material. Subject matter of the course may be presented by written, audio, or video materials.

As added by P.L. 185-1991, SEC.5. Amended by P.L. 119-1992, SEC.1.

IC 25-13-2-8 Continuing education course; retention of verification records

Sec. 8. For each continuing education course attended, a dental hygienist shall retain:

- (1) a record of the number of hours spent in the continuing education course;
- (2) the subject matter presented;
- (3) the name of the sponsoring approved organization; and
- (4) verification of attendance;

for three (3) years.

As added by P.L. 185-1991, SEC.5.

IC 25-13-2-9 Audit of compliance by board; verification copies

Sec. 9. (a) Subject to IC 25-1-4-3, every two (2) years the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the dental hygienists required to take continuing education courses.

(b) When requested by the board, a dental hygienist shall provide the board with a copy of each verification of attendance retained by the dental hygienist for the previous three (3) years.

As added by P.L. 185-1991, SEC.5. Amended by P.L. 269-2001, SEC.8.

IC 25-13-2-10 Course attendance by board member; organization's noncompliance with requirements; notice; rules

Sec. 10. (a) A member of the board may attend or monitor a continuing education course.

(b) An approved organization must provide the board with course information or materials requested by the board.

(c) If the board determines that an approved organization does not meet the requirements of this chapter, the board shall do the following:

(1) Provide written notification to the organization of the noncompliance specifying the items of noncompliance and the conditions of reinstatement.

(2) Deny credit hours awarded by the organization from the time that the organization receives a notice until the date of reinstatement.

(3) Make reasonable efforts to notify dental hygienists of the organization's noncompliance status.

(d) The board shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L. 185-1991, SEC.5.

IC 25-13-2-11 Noncompliance; notice; penalties

Sec. 11. (a) If the board determines that a dental hygienist has not complied with this chapter at the time that a dental hygienist applies for license renewal, the board shall do the following:

(1) Send the dental hygienist notice of noncompliance by certified mail.

(2) As a condition of license renewal, require the dental hygienist to comply with subsection (b).

(3) Issue a conditional license to the dental hygienist that is effective:

(A) unless the dental hygienist fails to comply with subsection (b); or

(B) until the dental hygienist complies with subsection (b).

(b) Upon receipt of a notice of noncompliance under subsection (a), a dental hygienist shall do the following:

(1) In addition to any civil penalty imposed under subsection (d), pay to the board a civil penalty not to exceed one thousand dollars (\$1,000) within five (5) days of receipt of the notice.

(2) Acquire, within six (6) months after receiving the notice, the number of credit hours needed to achieve full compliance.

(3) Comply with all other provisions of this chapter.

(c) If a dental hygienist fails to comply with subsection (b), the board shall immediately suspend the license of the dental hygienist and send notice of the suspension by certified mail.

(d) If the board determines that a dental hygienist has knowingly or intentionally made a false or misleading statement to the board concerning compliance with section 6 of this chapter, the board shall administer the requirements under subsection (a) and impose a civil penalty of not more than two thousand five hundred dollars (\$2,500) as required under subsection (b)(1).

(e) The board shall:

(1) reinstate a dental hygienist suspended under subsection (c); or

(2) renew the dental hygienist's license in place of the conditional license issued under subsection (a)(3); if the dental hygienist supplies proof of compliance with subsection (b).

As added by P.L. 185-1991, SEC.5. Amended by P.L. 119-1992, SEC.2.

IC 25-13-2-12 Denial of license renewal; noncompliance

Sec. 12. (a) If at the time a dental hygienist applies for license renewal the board determines that the dental hygienist has failed to comply with this chapter and the dental hygienist has previously received a notice of noncompliance under section 11(a) of this chapter during the preceding license period, the

board shall do the following:

(1) Provide the dental hygienist notice of noncompliance by certified mail.

(2) Deny the dental hygienist's application for license renewal.

(b) The board shall reinstate a license not renewed under subsection (a) upon occurrence of the following:

(1) Payment by the dental hygienist to the board of a civil penalty determined by the board, but not to exceed one thousand dollars (\$1,000).

(2) Acquisition by the dental hygienist of the number of credit hours required to be obtained by the dental hygienist during the relevant license period.

(3) The dental hygienist otherwise complies with this chapter.

As added by P.L.185-1991, SEC.5. Amended by P.L.119-1992, SEC.3.

IC 25-13-2-13 Credit hours; application to total hour requirement

Sec. 13. Credit hours acquired by a dental hygienist under section 11(b)(2) or 12(b)(2) of this chapter may not apply to the dental hygienist's credit hour requirement for the license period in which the credit hours are acquired.

As added by P.L.185-1991, SEC.5.

IC 25-13-2-14 Statewide course availability

Sec. 14. Continuing education courses must be made available in all geographical regions of Indiana.

As added by P.L.185-1991, SEC.5.

IC 25-14 ARTICLE 14. DENTISTS

IC 25-14-1

Chapter 1. Regulation of Dentists. Creation of Board

IC 25-14-1-0.5 Repealed

(Repealed by P.L.258-1987, SEC.3.)

IC 25-14-1-1 Necessity of license

Sec. 1. (a) Except as permitted under this chapter, it is unlawful for any person to practice dentistry in Indiana who is not licensed under this chapter.

(b) This chapter does not prohibit:

- (1) a hospital;
- (2) a public health clinic;
- (3) a federally qualified health center;
- (4) a rural health center;
- (5) a charitable health clinic;
- (6) a governmental entity;
- (7) a contractor or subcontractor of a governmental entity;

or

(8) another entity specified by a rule of the board; from providing dental health services if the dental health services are provided by dentists (licensed under this chapter) or dental hygienists (licensed under IC 25-13).

(Formerly: Acts 1913, c.138, s.1.) As amended by P.L.102-2000, SEC.1.

IC 25-14-1-1.5 Definitions

Sec. 1.5. As used in this article:

"Board" refers to the state board of dentistry established under this chapter.

"Bureau" refers to the health professions service bureau under IC 25-1-5.

"Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic method.

"General anesthesia" means a controlled state of unconsciousness, accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic method.

"Light parenteral conscious sedation" means a minimally depressed level of consciousness under which an individual retains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by an intravenous pharmacologic method.

As added by P.L.258-1987, SEC.1. Amended by P.L.24-1999, SEC.9.

IC 25-14-1-2 State board of dentistry; members; districts

Sec. 2. (a) The state board of dentistry is established and consists of:

(1) nine (9) practicing dentists who must have been in practice in this state for not less than the five (5) years;

(2) one (1) practicing dental hygienist licensed under IC 25-13-1; and

(3) one (1) member to represent the general public who must be a resident to this state and in no way associated with the profession of dentistry other than as a consumer.

All eleven (11) members of the board shall be appointed by the governor for a term of three (3) years each. Any member of the board may serve until the member's successor is appointed and qualified under this chapter. A member may serve consecutive terms, but no member may serve more than three (3) terms or a total of nine (9) years.

(b) The appointment of the dentist members shall be made in a manner that, at all times, each dentist member on the board represents and is a resident of one (1) of nine (9) examiner districts set forth in this subsection. Each dentist member shall be chiefly responsible in the performance of his duties with regard to the district from which he is appointed. The nine (9) dentist members' districts consist of the following counties:

(1) District 1. Tipton, Hamilton, Hendricks, Marion, Hancock, Morgan, Johnson, and Shelby.

(2) District 2. Lake, Porter, LaPorte, and Jasper.

(3) District 3. St. Joseph, Elkhart, Starke, Marshall, Kosciusko, and Fulton.

(4) District 4. LaGrange, Steuben, Jay, Noble, Whitley, Allen, Huntington, Wells, DeKalb, and Adams.

(5) District 5. Knox, Daviess, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, Spencer, and Perry.

(6) District 6. Newton, Benton, White, Pulaski, Cass, Miami, Wabash, Grant, Howard, Carroll, Warren, Tippecanoe, and Clinton.

(7) District 7. Vermillion, Parke, Fountain, Montgomery, Boone, Putnam, Vigo, Clay, Sullivan, Owen, Greene, and Martin.

(8) District 8. Madison, Delaware, Blackford, Randolph, Rush, Fayette, Union, Henry, and Wayne.

(9) District 9. Monroe, Brown, Bartholomew, Decatur, Franklin, Lawrence, Jackson, Jennings, Ripley, Dearborn, Orange, Washington, Scott, Jefferson, Switzerland, Ohio, Crawford, Harrison, Floyd, and Clark.

(c) The board shall examine all applicants for licenses who present the credentials set forth in this article and issue licenses to all applicants who pass a satisfactory examination.

(Formerly: Acts 1913, c.138, s.2; Acts 1931, c.169, s.1; Acts 1935, c.90, s.1; Acts 1949, c.248, s.1; Acts 1963, c.151, s.1; Acts 1971, P.L.372, SEC.1.) As amended by Acts 1977, P.L.2, SEC.76; Acts 1977, P.L.172, SEC.11; Acts 1981, P.L.222, SEC.120; Acts 1982, P.L.113, SEC.51; P.L.169-1985, SEC.46; P.L.24-1999, SEC.10.

IC 25-14-1-3 Examination; fees

Sec. 3. (a) A person desiring to begin the practice of dentistry in Indiana shall procure from the board a license to practice dentistry in Indiana. To procure the license, the applicant must submit to the board proof of graduation from a dental college recognized by the board. The board may recognize dental schools accredited by the Commission on Dental Accreditation of the American Dental Association, if the board is satisfied that the recognition is consistent with the board's requirements. Every applicant shall pay to the board a fee, set by the board under section 13 of this chapter, at the time of making the application and must pass an examination before the board at the time and place to be fixed by the board. The applicant must purchase examination supplies and pay a fee for the use of the examination facility.

(b) For those applicants who fail to pass an initial examination, subsequent examinations may be taken upon payment of a fee, set by the board under section 13 of this chapter, for each subsequent examination. If the applicant fails to pass the examination prescribed by the board, the applicant is entitled to the right of review of the board's action on the examination under IC 4-21.5. The board may establish, under section 13 of this chapter, additional requirements as a prerequisite to taking an examination for an applicant who has failed the examination two (2) or more times.

(c) A fee paid under this article may not be refunded.
(Formerly: Acts 1913, c.138, s.3; Acts 1931, c.169, s.2; Acts 1949, c.248, s.2; Acts 1963, c.151, s.2; Acts 1971, P.L.372, SEC.2.) As amended by Acts 1977, P.L.172, SEC.12; Acts 1981, P.L.222, SEC.121; P.L.169-1985, SEC.47; P.L.7-1987, SEC.119; P.L.354-1989(ss), SEC.2.

IC 25-14-1-3.1 Anesthesia or sedation; permit to administer; requirements; renewal

Sec. 3.1. (a) A dentist must have a permit to administer:

- (1) general anesthesia;
 - (2) deep sedation; or
 - (3) light parenteral conscious sedation;
- to a patient.

(b) The board shall establish by rule the educational and training requirements for the issuance and renewal of a permit required by subsection (a).

(c) The board shall establish the requirements for a program

of education and training for pediatric anesthesiology.

(d) The requirements for a permit issued under this section must be based on the American Dental Association's "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry" and accompanying policy statement adopted in November 1985.

(e) A permit issued under this section must be renewed biennially.

As added by P.L.258-1987, SEC.2. Amended by P.L.33-1993, SEC.21.

IC 25-14-1-3.5 Fees; establishment; disposition

Sec. 3.5. (a) Under IC 25-1-8 the board shall establish, under IC 25-13-1-5 and section 13 of this chapter, fees sufficient to implement IC 25-13 and IC 25-14.

(b) All money received by the board under this chapter shall be paid to the bureau which shall:

- (1) give a proper receipt for the same; and
- (2) at the end of each month:

(A) report to the auditor of state the total amount received from all sources; and

(B) deposit the entire amount of such receipts with the state treasurer to be deposited by the treasurer in the general fund of the state.

All expenses incurred in the administration of this chapter shall be paid from the general fund upon appropriation being made therefor in the manner provided by law for making such appropriations.

(Formerly: Acts 1971, P.L.372, SEC.3.) As amended by Acts 1976, P.L.119, SEC.12; Acts 1977, P.L.172, SEC.13; Acts 1981, P.L.222, SEC.122; P.L.169-1985, SEC.48.

IC 25-14-1-4 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-14-1-5 Intern permits for dentists or dental hygienists; restrictions; renewal; fees

Sec. 5. (a) The board may at its discretion issue a dental intern permit or dental hygienist intern permit to any person to whom it has not issued a license but who is a graduate of a dental college or school of dental hygiene recognized by the board and is otherwise qualified to take the regular examination for a license given by the board. However, an applicant for a dental intern permit or dental hygienist intern permit shall furnish the board satisfactory evidence that the applicant has been:

(1) appointed to a dental or a dental hygiene internship in a hospital or similar institution operated under the laws of Indiana; or

(2) employed as:

(A) an instructor in a dental school recognized and approved by the Indiana dental board; or

(B) a teacher or operator in a clinic in a public or parochial school, college, or university.

(b) The fee for the permit shall be set by the board under section 13 of this chapter.

(c) Any person receiving a dental or dental hygienist intern permit may practice dentistry or dental hygiene only in a hospital or other institution designated in the permit and only under the direction of a licensed dentist who is a member of the dental staff of such hospital or other institution. The intern's dental or dental hygiene practice shall be limited to bona fide patients of

such hospital or other institution.

(d) The permit shall be valid for only one (1) year from date of issue, shall be renewable in the discretion of the board upon the payment of a fee determined by the board under section 13 of this chapter, and may be recalled at any time by the board.

(Formerly: Acts 1913, c. 138, s. 4a; Acts 1949, c. 248, s. 3; Acts 1963, c. 151, s. 4; Acts 1971, P.L. 372, SEC. 5.) As amended by Acts 1977, P.L. 172, SEC. 14; P.L. 169-1985, SEC. 49.

IC 25-14-1-6 Repealed

(Repealed by Acts 1977, P.L. 172, SEC. 56.)

IC 25-14-1-7 Repealed

(Repealed by Acts 1977, P.L. 172, SEC. 56.)

IC 25-14-1-8 Repealed

(Repealed by Acts 1977, P.L. 172, SEC. 56.)

IC 25-14-1-9 Repealed

(Repealed by P.L. 169-1985, SEC. 97.)

IC 25-14-1-10 Renewal of license; renewal card; failure to renew; reinstatement of license

Sec. 10. (a) Unless renewed, a license issued by the board expires on a date specified by the health professions bureau under IC 25-1-5-4(k). An applicant for renewal shall pay the renewal fee set by the board under section 13 of this chapter on or before the renewal date specified by the health professions bureau.

(b) The license shall be properly displayed at all times in the office of the person named as the holder of the license, and a person may not be considered to be in legal practice if the person does not possess the license and renewal card.

(c) If a holder of a dental license does not secure the renewal card on or before the renewal date specified by the health professions bureau, without any action by the board the license together with any related renewal card is invalidated.

(d) Except as provided in section 27.1 of this chapter, a license invalidated under subsection (c) may be reinstated by the board up to three (3) years after its invalidation upon meeting the requirements under IC 25-1-8-6.

(e) Except as provided in section 27.1 of this chapter, if a license remains invalid under subsection (c) for more than three (3) years, the holder of the invalid license may obtain a reinstated license if the holder meets the following requirements:

(1) Meets the requirements under IC 25-1-8-6.

(2) Passes an examination on state and federal laws that are relevant to the practice of dentistry as determined by the board.

(3) Has been continuously engaged in the practice of dentistry from the date the holder's license was invalidated through the date the holder applies for reinstatement.

(4) Other than failing to obtain a renewal card, has complied with this chapter and the rules adopted under this chapter during the time specified under subdivision (3).

(5) Complies with any other requirements established by the board under subsection (g).

The board may require the holder of an invalid license who files an application under this subsection to appear before the board and explain why the holder failed to renew the license.

(f) If a license remains invalid under subsection (c) for more than three (3) years and the holder of the invalid license does not meet the requirements under subsection (e), the holder of the invalid license may be issued a license only by reapplying for a license under section 3 or 16 of this chapter. In addition, the board may require the holder of the invalidated license to pay all past due renewal fees and a penalty fee set by the board under section 13 of this chapter.

(g) The board may adopt rules under section 13 of this chapter establishing requirements for the reinstatement of a license that has been invalidated for more than three (3) years. The fee for a duplicate license to practice as a dentist is subject to IC 25-1-8-2.

(h) Biennial renewal of licenses is subject to IC 25-1-2.

(i) Subject to IC 25-1-4-3, an application for renewal of a license under this section must contain a sworn statement signed by the applicant attesting that the applicant has fulfilled the continuing education requirements under IC 25-14-3.
(Formerly: Acts 1913, c. 138, s. 9; Acts 1931, c. 169, s. 5; Acts 1935, c. 90, s. 4; Acts 1949, c. 248, s. 4; Acts 1951, c. 120, s. 1; Acts 1963, c. 151, s. 5; Acts 1971, P.L. 372, SEC. 7.) As amended by Acts 1977, P.L. 172, SEC. 15; Acts 1981, P.L. 222, SEC. 124; P.L. 169-1985, SEC. 50; P.L. 149-1987, SEC. 32; P.L. 185-1991, SEC. 6; P.L. 235-1995, SEC. 6; P.L. 44-2000, SEC. 3; P.L. 269-2001, SEC. 9.

IC 25-14-1-11 Board of examiners; removal of members; filling vacancies

Sec. 11. The governor shall have the power to remove any member of the board for incompetency, gross immorality, for any abuse of his official power or for any other good cause and may fill any vacancy occasioned by removal, death, resignation or otherwise, by appointment. Any person appointed to fill any vacancy of such board, whether caused by death, resignation, removal or otherwise, shall hold for the unexpired term of the member whose place he is appointed to fill and all vacancies shall be filled in the manner prescribed for the regular appointments to said board.

(Formerly: Acts 1913, c. 138, s. 10; Acts 1963, c. 151, s. 6.)

IC 25-14-1-12 Meetings of board; records; affiliation

Sec. 12. (a) The board shall hold not less than two (2) regular meetings in each year at such place as may be fixed by the board and as often in addition as may be necessary for the transaction of such business as may properly come under the provisions of this chapter, and it shall have power to make all necessary rules in accordance with this chapter. Additional meetings may be called at any time by the president or any six (6) members of the board to be held at such time and place as may be designated in the call. Six (6) members of the board constitute a quorum. A majority of the quorum may transact business. The board shall elect a president and a secretary. For their services, the members shall receive per diem and travel expenses as otherwise provided by law.

(b) It shall be the duty of the board through the bureau to keep a record of all applications for licenses for a period of time designated by the board, subject to the final approval of the oversight committee on public records under IC 5-15-5.1-19. Such records shall contain all the facts set forth in the application, including the action of the board. The board shall also retain all examination papers for a period of one (1) year from the date upon which the examination is held. The bureau

shall carry out the administrative functions of the board and shall provide necessary personnel to enable the board to properly carry out and enforce this chapter.

(c) The board may affiliate with the American Association of Dental Examiners as an active member thereof and may pay the regular annual dues of the association out of any available funds of the board, which are obtained by examination fees or registration renewal fees as provided by law. However, the affiliation with the American Association of Dental Examiners shall not impair, restrict, enlarge, or modify any of the rights, powers, duties, or functions of the board as prescribed by the laws of this state. The board may designate one (1) of its members as a delegate of any meeting of the association, and such delegate member shall receive the regular per diem paid to members of the board for their services on the board and his necessary expenses while traveling to and from and attending such meetings.

(Formerly: Acts 1913, c.138, s.11; Acts 1917, c.160, s.1; Acts 1949, c.248, s.5; Acts 1951, c.120, s.2; Acts 1963, c.151, s.7; Acts 1971, P.L.372, SEC.8; Acts 1972, P.L.10, SEC.7.) As amended by Acts 1977, P.L.2, SEC.77; Acts 1977, P.L.172, SEC.16; Acts 1981, P.L.222, SEC.125; P.L.169-1985, SEC.51; P.L.149-1987, SEC.33.

IC 25-14-1-13 Powers and duties of board; complaints; hearings

Sec. 13. (a) The board is charged with the duty of administering and enforcing the laws pertaining to the practice of dentistry and of dental hygiene. The board may adopt and enforce rules for the administration and enforcement of this article in accordance with IC 4-22-2. The board shall adopt a code of professional conduct and shall adopt rules establishing standards for the competent practice of dentistry or dental hygiene. The board may adopt rules concerning assessment of costs in disciplinary proceedings before the board.

(b) Complaints against persons licensed under this article or IC 25-13 are subject to IC 25-1-7. The board may conduct hearings concerning these complaints in accordance with IC 4-21.5.

(Formerly: Acts 1913, c.138, s.12; Acts 1935, c.90, s.5; Acts 1949, c.248, s.6; Acts 1963, c.151, s.8.) As amended by Acts 1981, P.L.222, SEC.126; P.L.169-1985, SEC.52; P.L.149-1987, SEC.34.

IC 25-14-1-14 Injunction

Sec. 14. The attorney general, prosecuting attorney, the state board of dentistry, or any citizen of any county where any person shall engage in the practice of dentistry, as herein defined, without possessing a valid license so to do, may, in accordance with the laws of the state of Indiana governing injunctions, maintain an action in the name of the state of Indiana to enjoin such person from engaging in the practice of dentistry, as herein defined, until a valid license to practice dentistry be secured. And any person who has been so enjoined who shall violate such injunction shall be punished for contempt of court: Provided, That such injunction shall not relieve such person so practicing dentistry without a valid license from a criminal prosecution therefor as is now provided by law, but such remedy by injunction shall be in addition to any remedy now provided for the criminal prosecution of such offender. In charging any person in a complaint for injunction, or in an affidavit, information or indictment, with a violation of this law by practicing dentistry

without a valid license, it shall be sufficient to charge that such person did, upon a certain day and in a certain county, engage in the practice of dentistry, he not having a valid license so to do, without averring any further or more particular facts concerning the same.

(Formerly: Acts 1913, c.138, s.12a; Acts 1931, c.169, s.6.) As amended by P.L.24-1999, SEC.11.

IC 25-14-1-15 Attorney's fees

Sec. 15. In case judgment is rendered in favor of the plaintiff in any action brought under the provisions of this chapter, the court rendering the same shall also render judgment for reasonable attorney's fees in such action in favor of the plaintiff and against the defendant therein, and when collected such fees shall be paid to the attorney or the attorneys of the plaintiff therein, which if paid to the attorney general or to any prosecuting attorney shall be additional to any compensation otherwise allowed by law.

(Formerly: Acts 1913, c.138, s.12b; Acts 1931, c.169, s.7.) As amended by Acts 1982, P.L.154, SEC.49.

IC 25-14-1-16 Applicants for examination; required information; license by endorsement; rules; appearance by applicant before board

Sec. 16. (a) An applicant for examination under this article must submit to the board at least forty-five (45) days before the examination date an application in a form and manner prescribed by the board and proof satisfactory to the board that the applicant has not been convicted of a crime that has a direct bearing on the applicant's ability to practice competently. An applicant must submit proof to the board at least seven (7) days before the examination date that the applicant is a graduate of a dental school that is recognized by the board.

(b) The board may issue a license upon payment of a fee, set by the board under section 13 of this chapter, to an applicant who furnishes proof satisfactory to the board that the applicant is a dentist who:

(1) is licensed in another state or a province of Canada that has licensing requirements substantially equal to those in effect in Indiana on the date of application;

(2) has practiced dentistry for at least two (2) of the three (3) years preceding the date of application;

(3) passes the law examination administered by the board;

(4) has completed at least twenty (20) hours of continuing education in the previous two (2) years; and

(5) meets all other requirements of this chapter.

(c) The board shall have power to adopt rules under section 13 of this chapter for licensure by endorsement.

(d) An applicant shall, at the request of the board, make an appearance before the board.

(Formerly: Acts 1913, c.138, s.13; Acts 1917, c.160, s.2; Acts 1935, c.90, s.6; Acts 1963, c.151, s.9.) As amended by Acts 1977, P.L.172, SEC.17; P.L.169-1985, SEC.53; P.L.149-1987, SEC.35; P.L.48-1991, SEC.26; P.L.33-1993, SEC.22; P.L.24-1999, SEC.12.

IC 25-14-1-16.1 Repealed

(Repealed by P.L.33-1993, SEC.74.)

IC 25-14-1-17 Record of persons practicing with and employed by license holder

Sec. 17. A person practicing dentistry, upon written demand made by the secretary of the state board of dentistry, shall not fail to furnish in writing, within twenty (20) days after such demand, the name and address of each person practicing or assisting in the practice of dentistry in the office of said person, together with a sworn statement showing by what authority or license such person or persons are practicing dentistry and in what capacity nonlicensed persons are assisting in practice; said list of names and addresses shall include all persons who have been thus employed within the sixty (60) days next preceding such demand; however, such affidavit may not be used as evidence against either said person or persons so reported in any proceeding under this chapter.

(Formerly: Acts 1913, c.138, s.14; Acts 1917, c.160, s.3; Acts 1931, c.169, s.8.) As amended by Acts 1978, P.L.2, SEC.2528; P.L.24-1999, SEC.13.

IC 25-14-1-18 Display of name and address

Sec. 18. A practitioner of dentistry shall not fail to post, and keep conspicuously displayed, his name and license in the dental office wherein he practices, in plain sight of his patients; if there are more dentists than one (1) practicing or employed in any dental office, the manager or proprietor of the office shall not fail to post and display the name and license of each dentist so practicing and so employed therein.

(Formerly: Acts 1913, c.138, s.15; Acts 1917, c.160, s.4.) As amended by Acts 1977, P.L.172, SEC.18; Acts 1978, P.L.2, SEC.2529.

IC 25-14-1-19 Repealed

(Repealed by Acts 1981, P.L.222, SEC.296.)

IC 25-14-1-19.1 Repealed

(Repealed by P.L.152-1988, SEC.30.)

IC 25-14-1-20 Disciplinary proceedings

Sec. 20. Proceedings for disciplinary action against a holder of a license to practice dentistry or dental hygiene in Indiana shall be had in accordance with IC 25-1-7 and IC 4-21.5.

(Formerly: Acts 1913, c.138, s.17; Acts 1931, c.169, s.10; Acts 1935, c.90, s.8; Acts 1963, c.151, s.11.) As amended by Acts 1977, P.L.172, SEC.20; P.L.169-1985, SEC.55; P.L.7-1987, SEC.120.

IC 25-14-1-21 Representation by attorney general

Sec. 21. It shall be the duty of the attorney general to represent the state board of dentistry in any court in which an action may be filed for the review of an order of the board as provided for in section 20 of this chapter. The attorney general may, at his discretion, call to his assistance in such action, the prosecuting attorney of the county in which such action is filed. Also, the board, with the written consent of the attorney general, shall have the right to employ, out of its own funds, any other attorney or attorneys to assist the attorney general in any such action.

(Formerly: Acts 1913, c.138, s.18; Acts 1935, c.90, s.9; Acts 1963, c.151, s.12.) As amended by Acts 1982, P.L.154, SEC.50; P.L.24-1999, SEC.14.

IC 25-14-1-22 Exceptions

Sec. 22. This chapter does not apply to the following:

(1) Any commissioned officer of the regular United States armed services, United States Public Health Service, or United States Department of Veterans Affairs in the discharge of the officer's official duties.

(2) Any dentist who is legally qualified to practice in the state or territory where the dentist resides, when in actual consultation with a legal practitioner of Indiana.

(3) Any dentist residing on the border of a neighboring state and authorized to practice dentistry under the laws of the state whose practice extends into the border of Indiana; however, such practitioner shall not open an office or appoint a place to meet patients or solicit practice within Indiana.

(4) Any dentist who is licensed in another state while appearing as a clinician for demonstrating certain methods of technical procedures before a meeting, clinic, or convention of Indiana dentists; however, no fee, cash, or money reimbursement, consideration, or remuneration of any kind is paid directly or indirectly or by any subterfuge, to such clinician by or for the person used as a patient in such clinic or demonstration.

(5) Licensed physicians or surgeons who are authorized to take x-ray pictures of the human teeth or jaws, to extract teeth, and to perform surgical operations (as described in IC 25-22.5-1-1.1(a)(1)(C)) upon the teeth or jaws at their usual office or residence or within the vicinity of their ordinary practice, whenever, in their judgment, the same may be necessary. This exception shall not apply to itinerant licensed physicians and surgeons who have to a large extent abandoned their practice as physicians and surgeons and are, in fact and effect, practicing dentistry almost exclusively.

(Formerly: Acts 1913, c.138, s.19; Acts 1931, c.169, s.11; Acts 1935, c.90, s.10.) As amended by Acts 1977, P.L.172, SEC.21; P.L.169-1985, SEC.56; P.L.1-1990, SEC.252; P.L.217-1993, SEC.1.

IC 25-14-1-23 Practice of dentistry within meaning of act

Sec. 23. (a) A person is practicing dentistry within the meaning of this chapter if the person does any of the following:

(1) Uses the word "dentist" or "dental surgeon", the letters "D.D.S." or "D.M.D.", or other letters or titles in connection with dentistry.

(2) Directs and controls the treatment of patients within a place where dental services are performed.

(3) Advertises or permits to be advertised by sign, card, circular, handbill, newspaper, radio, or otherwise that he can or will attempt to perform dental operations of any kind.

(4) Offers to diagnose or professes to diagnose or treats or professes to treat any of the lesions or diseases of the human oral cavity, teeth, gums, or maxillary or mandibular structures.

(5) Extracts human teeth or corrects malpositions of the teeth or jaws.

(6) Administers dental anesthetics.

(7) Uses x-ray pictures for dental diagnostic purposes.

(8) Makes impressions or casts of any oral tissues or structures for the purpose of diagnosis or treatment thereof or for the construction, repair, reproduction, or duplication of any prosthetic device to alleviate or cure any oral lesion or replace any lost oral structures, tissue, or teeth.

(9) Advertises to the public by any method, except trade

and professional publications, to furnish, supply, construct, reproduce, repair, or adjust any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.

(10) Is the employer of a dentist who is hired to provide dental services.

(11) Directs or controls the use of dental equipment or dental material while the equipment or material is being used to provide dental services. However, a person may lease or provide advice or assistance concerning dental equipment or dental material if the person does not restrict or interfere with the custody, control, or use of the equipment or material by the dentist. This subdivision does not prevent a dental hygienist who is licensed under IC 25-13 from owning dental equipment or dental materials within the dental hygienist's scope of practice.

(12) Directs, controls, or interferes with a dentist's clinical judgment.

(13) Exercises direction or control over a dentist through a written contract concerning the following areas of dental practice:

(A) The selection of a patient's course of treatment.

(B) Referrals of patients, except for requiring referrals to be within a specified provider network, subject to the exceptions under IC 27-13-36-5.

(C) Content of patient records.

(D) Policies and decisions relating to refunds, if the refund payment would be reportable under federal law to the National Practitioner Data Bank, and warranties.

(E) The clinical content of advertising.

(F) Final decisions relating to the employment of dental office personnel.

However, this subdivision does not prohibit a person from providing advice or assistance concerning the areas of dental practice referred to in this subdivision or an insurer (as defined in IC 27-1-26-1) from carrying out the applicable provisions of IC 27 under which the insurer is licensed.

However, a person does not have to be a dentist to be a manufacturer of dental prostheses.

(b) In addition to subsection (a), a person is practicing dentistry who directly or indirectly by any means or method furnishes, supplies, constructs, reproduces, repairs, or adjusts any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth and delivers the resulting product to any person other than the duly licensed dentist upon whose written work authorization the work was performed. A written work authorization shall include the following:

(1) The name and address of the dental laboratory to which it is directed.

(2) The case identification.

(3) A specification of the materials to be used.

(4) A description of the work to be done and, if necessary, diagrams thereof.

(5) The date of issuance of the authorization.

(6) The signature and address of the licensed dentist or other dental practitioner by whom the work authorization is issued.

A separate work authorization shall be issued for each patient of the issuing licensed dentist or other dental practitioner for whom dental technological work is to be performed.

(c) This section shall not apply to those procedures which a legally licensed and practicing dentist may delegate to competent office personnel as to which procedures the dentist exercises supervision and responsibility. Delegated procedures

may not include either:

(1) those procedures which require professional judgment and skill such as diagnosis, treatment planning, and the cutting of hard or soft tissues or any intraoral impression which would lead to the fabrication of an appliance, which, when worn by the patient, would come in direct contact with hard or soft tissues and which could result in tissue irritation or injury; or

(2) those procedures allocated under IC 25-13-1 to licensed dental hygienists.

This chapter shall not prevent dental students from performing dental operations under the supervision of competent instructors within the dental school or a university recognized by the board or in any public clinic under the supervision of the authorized superintendent of such clinic authorized under the authority and general direction of the board of health or school board of any city or town in Indiana.

(d) Licensed pharmacists of this state may fill prescriptions of licensed dentists of this state for any drug necessary in the practice of dentistry.

(Formerly: Acts 1913, c.138, s.20; Acts 1917, c.160, s.6; Acts 1931, c.169, s.12; Acts 1943, c.308, s.2; Acts 1963, c.151, s.13; Acts 1971, P.L.372, SEC.9.) As amended by P.L. 169-1985, SEC.57; P.L.155-1988, SEC.1; P.L.102-2000, SEC.2.

IC 25-14-1-24 Evidence of practicing dentistry within meaning of act; exception

Sec. 24. The announcing to the public in any manner of intent to maintain, directly or indirectly, an office or place of business for the practice of dentistry, or the use of any professional degree, title, or designation, personal or otherwise, or a sign, card, circular, device, picture, or advertisement that might impress the public that the office is used for the practice of dentistry is prima facie evidence of engaging in the practice of dentistry. Nothing in this section may be construed to interfere with sales of dental equipment or materials by established, bona fide dealers or with the renting or leasing of real estate or dental equipment by the actual owner thereof or his agent.

(Formerly: Acts 1913, c.138, s.20a; Acts 1943, c.308, s.3.) As amended by P.L.155-1988, SEC.2.

IC 25-14-1-25 Specific violations

Sec. 25. (a) It is a Class D felony for a person to do any of the following:

(1) Practice dentistry not being at the time a dentist duly licensed to practice as such in this state under this chapter.

(2) Employ, hire, or procure one who is not duly licensed as a dentist to practice dentistry, but a person practiced upon by an unlicensed dentist does not violate this section.

(b) It is a Class B misdemeanor for a person to do any of the following:

(1) Sell or barter, or offer to sell or barter, or, not being lawfully authorized so to do, issue or confer, or offer to issue or confer, any dental degree, license, or any diploma or document conferring, or purporting to confer, any dental degree or license, or any certificate or transcript made, or purporting to be made, under this chapter.

(2) Purchase, or procure by barter, any diploma, license, certificate, or transcript, with intent that it be used as evidence of the qualifications to practice dentistry of any person other than the one upon, or to whom, it was lawfully conferred or issued, or in fraud of the laws regulating the practice.

(3) Use any diploma, certificate, or transcript which has

been purchased, fraudulently issued, counterfeited, or materially altered, either as a license or color of license, to practice dentistry, or in order to procure registration as a dentist.

(4) Practice dentistry under a false name, under a name intended to mislead the public, under the license of another person of the same name, or hold himself out to the public under such a name as a practitioner of dentistry.

(5) Assume the title or degree of "Bachelor of Dental Surgery", append the letters "B.D.S.", "D.D.S.", "M.D.S.", or "D.M.D.", to his name, or make use of the same, or prefix to his name the title of "Doctor", or any abbreviation thereof, not having had duly conferred upon him by diploma from some college, school, or board of examiners legally empowered to confer the same, the right to assume such a title.

(6) Assume any title or append or prefix any words to his name, with intent to represent falsely that he has received a dental degree or license.

(7) Not having been licensed to practice dentistry under the laws of this state, represent that he is entitled so to practice (a dental licensee may use the prefix "Doctor" or "Dr." to his name).

(8) Falsely personate another at any examination held by the board to ascertain the preliminary professional education of candidates for dental certificates, dental degrees, or dental licenses or knowingly avail himself of the benefit of false personation.

(9) Otherwise violate this chapter.

(c) Each date that a person violates this section constitutes a separate offense.

(Formerly: Acts 1913, c.138, s.21; Acts 1917, c.160, s.7; Acts 1931, c.169, s.13; Acts 1963, c.151, s.14.) As amended by Acts 1977, P.L.172, SEC.22; Acts 1978, P.L.2, SEC.2530; P.L.169-1985, SEC.58; P.L.155-1988, SEC.3.

IC 25-14-1-26 Repealed

(Repealed by P.L.4-1998, SEC.15.)

IC 25-14-1-27 Repealed

(Repealed by Acts 1979, P.L.17, SEC.55.)

IC 25-14-1-27.1 Inactive license

Sec. 27.1. (a) The board may classify a license as inactive if the board receives written notification from a licensed dentist stating that the dentist will not practice as a dentist in Indiana.

(b) The board may issue a license to the holder of an inactive license under this section, if the applicant:

- (1) pays the renewal fee set by the board;
- (2) pays the reinstatement fee set by the board; and
- (3) meets continuing education requirements set by the board.

As added by P.L.235-1995, SEC.7.

IC 25-14-1-27.5 Instructor's license

Sec. 27.5. (a) The board may issue an instructor's license to an individual who is not otherwise licensed to practice dentistry in Indiana if the individual meets the following conditions:

(1) The individual has been licensed or has had the equivalent of a license for five (5) of the preceding nine (9) years to practice dentistry in the United States or in any country, territory, or other recognized jurisdiction.

(2) The individual has been approved under the credentialing process of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry that is accredited by:

(A) the American Dental Association Commission on Dental Accreditation; or

(B) the Joint Commission on Accreditation of Health Care Organizations.

(3) The individual has successfully documented or demonstrated clinical and academic competency to the board.

(4) The individual is fluent in the English language.

(5) The individual passes the written law examination administered by the board.

(6) The individual meets the continuing education requirements required by IC 25-14-3.

(7) The individual pays the licensing fee set by the board under subsection (f).

(b) A license issued under this section must be held by the Indiana school of dentistry for which the licensee is employed.

(c) A license issued under this section does not meet the requirements of section 16 of this chapter and may not be used to obtain a general dentistry license under this article.

(d) A licensee under this section may teach and practice dentistry only at or on behalf of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry.

(e) An instructor's license is valid only during the time the licensee is employed or has a valid employment contract for a full-time faculty position at the Indiana school of dentistry or an affiliated medical center. The Indiana school of dentistry or the affiliated medical center shall notify the board in writing upon the termination of the employment contract of an individual who is issued a license under this section and surrender the license not later than thirty (30) days after the licensee's employment ceases.

(f) The board shall set a fee for the issuance and renewal of a license under this section.

(g) Unless renewed, a license issued by the board under this section expires annually on a date specified by the health professions bureau under IC 25-1-5-4. An applicant for renewal must pay the renewal fee set by the board on or before the renewal date specified by the health professions bureau.

(h) Not more than five percent (5%) of the Indiana school of dentistry's full-time faculty may be individuals licensed under this section.

(i) The board shall adopt rules under IC 4-22-2 necessary to implement this section.

(j) This section expires June 30, 2008.

As added by P.L.210-2003, SEC.1. Amended by Acts 2004, SB 106, SEC. 92.

IC 25-14-1-28 Severability

Sec. 28. If any provision of this chapter as amended be decided by the courts to be unconstitutional or invalid, such unconstitutional or invalid provision shall be considered severable from the remainder of this chapter and shall be excised therefrom, and the same shall not affect the validity of this chapter as a whole, or any part thereof, other than the part so decided to be unconstitutional or invalid.

(Formerly: Acts 1913, c.138, s.23a; Acts 1931, c.169, s.14; Acts 1935, c.90, s.11.) As amended by Acts 1982, P.L.154, SEC.52.

IC 25-14-1-29 Liberal construction

Sec. 29. This chapter shall be deemed to be enacted in the

interests of public health, safety, and welfare, and its provisions shall be liberally construed to serve such interests.
(Formerly: Acts 1971, P.L.372, SEC.10.)

IC 25-14-1-30 Certificates deemed licenses

Sec. 30. All certificates issued by the dental board for the practice of dentistry which certificates were issued prior to May 1, 1977, shall be deemed to be licenses for the practice of dentistry. All applications for the practice of dentistry and all renewal notices sent for the practice of dentistry in Indiana shall be for licenses and not for certificates. For the purposes of this chapter, all certificates and renewals for certificates for the practice of dentistry shall be the same as licenses and renewals for licenses issued subsequent to May 1, 1977.

As added by Acts 1977, P.L.172, SEC.23.

IC 25-14-2

Chapter 2. Marking Requirements for Dentures and Partial Dentures

IC 25-14-2-1 Definitions

Sec. 1. As used in this chapter, "dentist" means an individual who holds a license to practice dentistry in Indiana issued under IC 25-14-1.

As added by P.L.135-1984, SEC.1.

IC 25-14-2-2 Marking of denture

Sec. 2. Except as otherwise provided in section 5 of this chapter, a dentist shall see that each denture he delivers to a patient in Indiana is marked in the manner prescribed in this chapter if the denture has been fabricated by the dentist or under a work order issued by him.

As added by P.L.135-1984, SEC.1.

IC 25-14-2-3 Marking of partial denture

Sec. 3. Except as otherwise provided in section 5 of this chapter, a dentist shall see that each partial denture he delivers to a patient in Indiana is marked in the manner prescribed in this chapter if the partial denture has been fabricated, rebased, or duplicated by the dentist or pursuant to a work order issued by him.

As added by P.L.135-1984, SEC.1.

IC 25-14-2-4 Option to mark patient's name or social security number

Sec. 4. Each denture and each partial denture covered by section 2 or 3 of this chapter shall be marked, at the patient's option, with either the patient's name or his social security number.

As added by P.L.135-1984, SEC.1.

IC 25-14-2-5 Exception to requirements of chapter

Sec. 5. If a dentist:

(1) determines that it is impossible to mark a denture or a partial denture in the manner described in section 4 of this chapter; and

(2) notifies the patient in writing of that determination before the denture or partial denture is delivered to the patient; the marking requirements of this chapter do not apply to that denture or partial denture.

As added by P.L.135-1984, SEC.1.

IC 25-14-3

Chapter 3. Continuing Education

IC 25-14-3-1 Applicability of chapter

Sec. 1. This chapter does not apply to the following:

(1) A dentist who has held an initial license for less than two (2) years.

(2) A graduate student or a person in a resident program offered by an approved organization listed under section 2(13) of this chapter.

(3) A person who is determined by the board as being unable to practice dentistry due to a disability.

(4) A person who has been granted an inactive license under IC 25-14-1-27.1.

As added by P.L.185-1991, SEC.7. Amended by P.L.235-1995, SEC.8.

IC 25-14-3-2 "Approved organization" defined

Sec. 2. "Approved organization" means the following:

(1) United States Department of Education.

(2) Council on Post-Secondary Education.

(3) National Dental Association.

(4) American Dental Association.

(5) Academy of General Dentistry.

(6) National Dental Hygiene Association.

(7) American Dental Hygiene Association.

(8) Council on Hospital Dental Services.

(9) American Medical Association.

(10) Joint Commission on Accreditation of Hospitals.

(11) Joint Commission on Healthcare Organizations.

(12) Study clubs approved by the board.

(13) Federal, state, and local government agencies.

(14) International organizations approved by the American Dental Association.

(15) A college or other teaching institution accredited by the United States Department of Education or the Council on Post-Secondary Education.

(16) A national, state, district, or local organization that operates as an affiliated entity under the approval of any organization listed in subdivisions (1) through (14).

(17) An internship or a residency program conducted in a hospital that has been approved by an organization listed in subdivisions (1) through (15).

(18) Any other organization or individual approved by the board.

As added by P.L.185-1991, SEC.7.

IC 25-14-3-3 "Board" defined

Sec. 3. As used in this chapter, "board" refers to the state board of dentistry established under IC 25-14-1-2.

As added by P.L.185-1991, SEC.7. Amended by P.L.24-1999, SEC.15.

IC 25-14-3-4 "Continuing education course" defined

Sec. 4. As used in this chapter, "continuing education course" means an orderly process of instruction designed to directly enhance the practicing dentist's knowledge and skill in providing relevant dentist services that is approved by an approved organization.

As added by P.L.185-1991, SEC.7.

IC 25-14-3-5 "License" defined

Sec. 5. As used in this chapter, "license" means a license to practice dentistry under IC 25-14-1-3.
As added by P.L.185-1991, SEC.7.

IC 25-14-3-6 "License period" defined

Sec. 6. As used in this chapter, "license period" means the two (2) year period beginning on March 2, 1992, and every two (2) years thereafter.
As added by P.L.185-1991, SEC.7.

IC 25-14-3-7 "Study club" defined

Sec. 7. As used in this chapter, "study club" means a group of at least five (5) dentists who do the following:

- (1) Organize for the purpose of scientific study.
- (2) Operate under the direction of elected officers.
- (3) Maintain written bylaws.
- (4) Conduct regular meetings.
- (5) Maintain written attendance records of all meetings.

As added by P.L.185-1991, SEC.7.

IC 25-14-3-8 Continuing education; credit hour requirement

Sec. 8. (a) A dentist must complete at least twenty (20) credit hours in continuing education courses each license period.

(b) Credit hours may be applied under this section only toward the credit hour requirement for the license period during which the credit hours are earned.

(c) During a license period, a dentist may not earn more than five (5) credit hours toward the requirements under this section for continuing education courses that relate specifically to the area of practice management.

As added by P.L.185-1991, SEC.7.

IC 25-14-3-9 Credit hours; award

Sec. 9. Credit hours under section 8 of this chapter must be awarded as follows:

- (1) A course presented by a college under a regular curriculum is awarded one (1) credit hour for each lecture hour attended.
- (2) A course not listed in subdivision (1) is awarded one (1) credit hour for each lecture hour and two (2) credit hours for each participation hour of the course.
- (3) A speech, lecture, or other presentation by a dentist is awarded two (2) credit hours if the following conditions are met:
 - (A) The presentation concerns a subject that would be suitable for a continuing education course.
 - (B) The subject of the presentation is eligible for credit only once, regardless of the number of times it is presented.
 - (C) The dentist maintains a record of the time, place, and date of the presentation.
 - (D) The presentation is sponsored by an approved organization.
 - (E) Not more than four (4) credit hours are awarded to the dentist under this subdivision during a license period.
- (4) Attendance at a state, regional, or national meeting sponsored by an approved organization is awarded one (1) credit hour.
- (5) Attendance at a meeting of a study club that uses films, audio cassettes, live presentations, or written materials sponsored by the American Dental Association is awarded one (1) credit hour. However, a dentist may not receive credit under

this subdivision for more than four (4) credit hours during a license period.

(6) Attendance at a meeting of a study club featuring a guest speaker whose presentation concerns a subject suitable for a continuing education course is awarded one (1) credit hour for each hour attended.

(7) A home study course that is presented by an approved organization and meets the requirements under this subdivision is awarded the same number of credit hours given to courses provided by a college. If the approved organization does not assess credit hours to a course under this subdivision, the course is awarded one (1) credit hour for each hour of study material. Subject matter of the course may be presented by written, audio, or video materials.

As added by P.L.185-1991, SEC.7. Amended by P.L.119-1992, SEC.4.

IC 25-14-3-10 Continuing education courses; retention of verification records

Sec. 10. For each continuing education course attended, each dentist shall retain:

- (1) a record of the number of hours spent in that continuing education course;
- (2) the subject matter presented;
- (3) the name of the sponsoring approved organization; and
- (4) verification of attendance;

for three (3) years.

As added by P.L.185-1991, SEC.7.

IC 25-14-3-11 Board audit of compliance; verification copies

Sec. 11. (a) Subject to IC 25-1-4-3, every two (2) years the board shall randomly audit for compliance at least one percent (1%) but not more than ten percent (10%) of the dentists required to take continuing education courses.

(b) When requested by the board, a dentist shall provide the board with a copy of each verification of attendance retained by the dentist for the previous three (3) years.

As added by P.L.185-1991, SEC.7. Amended by P.L.269-2001, SEC.10.

IC 25-14-3-12 Course attendance by board member; organization's noncompliance with requirements; notice; rules

Sec. 12. (a) A member of the board may attend or monitor a continuing education course.

(b) An approved organization shall provide the board with course information or materials requested by the board.

(c) If the board determines that an approved organization does not meet the requirements of this chapter, the board shall do the following:

(1) Provide written notification to the organization of the noncompliance specifying the items of noncompliance and the conditions of reinstatement.

(2) Deny credit hours awarded by the organization from the time that the organization receives a notice until the date of reinstatement.

(3) Make reasonable efforts to notify dentists of the organization's noncompliance status.

(d) The board shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.185-1991, SEC.7.

IC 25-14-3-13 Noncompliance by dentist; notice; penalties

Sec. 13. (a) If the board determines that a dentist has not complied with this chapter at the time that a dentist applies for license renewal, the board shall do the following:

(1) Send the dentist notice of noncompliance by certified mail.

(2) As a condition of license renewal, require the dentist to comply with subsection (b).

(3) Issue a conditional license to the dentist that is effective:

(A) unless the dentist fails to comply with subsection (b);

or

(B) until the dentist complies with subsection (b).

(b) Upon receipt of a notice of noncompliance under subsection (a), a dentist shall do the following:

(1) In addition to any civil penalty imposed under subsection (d), pay to the board a civil penalty not to exceed one thousand dollars (\$1,000) within five (5) days of receipt of the notice.

(2) Acquire, within six (6) months after receiving the notice, the number of credit hours needed to achieve full compliance.

(3) Comply with all other provisions of this chapter.

(c) If a dentist fails to comply with subsection (b), the board shall immediately suspend the license of the dentist and send notice of the suspension by certified mail.

(d) If the board determines that a dentist has knowingly or intentionally made a false or misleading statement to the board concerning compliance with section 8 of this chapter, the board shall administer the requirements under subsection (a) and impose a civil penalty of not more than five thousand dollars (\$5,000) as required under subsection (b)(1).

(e) The board shall:

(1) reinstate a dentist suspended under subsection (c); or

(2) renew the dentist's license in place of the conditional license issued under subsection (a)(3);

if the dentist supplies proof of compliance with subsection (b).

As added by P.L.185-1991, SEC.7. Amended by P.L. 119-1992, SEC.5.

IC 25-14-3-14 License renewal denial; noncompliance

Sec. 14. (a) If at the time a dentist applies for license renewal the board determines that the dentist has failed to comply with this chapter and the dentist has previously received a notice of noncompliance under section 13(a) of this chapter during the preceding license period, the board shall do the following:

(1) Provide the dentist notice of noncompliance by certified mail.

(2) Deny the dentist's application for license renewal.

(b) The board shall reinstate a license not renewed under subsection (a) upon occurrence of the following:

(1) Payment by a dentist to the board of a civil penalty determined by the board, but not to exceed one thousand dollars (\$1,000).

(2) Acquisition by the dentist of the number of credit hours required to be obtained by the dentist during the relevant license period.

(3) The dentist otherwise complies with this chapter.

As added by P.L.185-1991, SEC.7. Amended by P.L. 119-1992, SEC.6.

IC 25-14-3-15 Credit hours; application to total credit hour requirement

Sec. 15. Credit hours acquired by a dentist under section

13(b)(2) or 14(b)(2) of this chapter may not apply to the dentist's credit hour requirement for the license period in which the credit hours are acquired.

As added by P.L.185-1991, SEC.7.

IC 25-14-3-16 Statewide course availability

Sec. 16. Continuing education courses must be made available in all geographical regions of Indiana.

As added by P.L.185-1991, SEC.7.

IC 25-14-4**Chapter 4. Referral Services****IC 25-14-4-1 Application of chapter**

Sec. 1. This chapter does not apply to:

(1) any individual, agency, association, or corporation not organized or incorporated for pecuniary profit or financial gain;

(2) any organization or association that is exempt from taxation under Section 501(c) of the Internal Revenue Code; or

(3) any policy issued under IC 27 or entity licensed or regulated under IC 27, including the following:

(A) A health maintenance organization under IC 27-13.

(B) A claim review agent under IC 27-8-16.

(C) A utilization review agent under IC 27-8-17.

(D) A preferred provider arrangement under IC 27-8-11.

(E) An insurance administrator under IC 27-1-25.

As added by P.L.33-1993, SEC.23. Amended by P.L.26-1994, SEC.8.

IC 25-14-4-2 Disclosure that dentist paid referral fee for participation in service

Sec. 2. A person, firm, partnership, association or corporation, or agent or employee that engages in for profit any business or service that in whole or in part includes the referral or recommendation of persons to a dentist for any form of dental care or treatment must disclose to a prospective patient at the time the prospective patient makes the contact with the service that the licensed dentist has paid a fee for participation in the service.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-3 Out-of-state dental referrals to business not meeting chapter requirements

Sec. 3. A dentist may not enter into a contract or other form of agreement to accept for dental care or treatment a person referred or recommended for the care or treatment by a dental referral service business located in or doing business in another state if the dental referral service business does not meet the requirements of this chapter.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-4 Advertisements by dental referral services; necessary disclaimers

Sec. 4. A for-profit dental referral service that advertises must include in each advertisement an audible or a written disclaimer revealing that:

(1) Each subscribing member of the for-profit dental referral service is a dentist who has paid a fee to participate in the service.

(2) Dentists who are members of the for-profit dental

referral service are not more or less qualified than dentists who are not members of the service.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-5 Advertisements; prohibited acts

Sec. 5. For-profit dental referral service advertisements may not do any of the following:

(1) Misrepresent facts, be deceptive, or create false or misleading impressions regarding the skills or abilities of subscribing dentists.

(2) Contain statements or make recommendations concerning nonspecific or non bona fide claims of providing referrals to the most qualified dentists or dental practices.

(3) Describe:

(A) a review process;

(B) a screening; or

(C) qualifications or information verification;

that misleads the public into thinking a dentist subscriber has obtained a special recognition or joined a selective group of licensed dentists by being a member of the for-profit dental referral service.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-6 Chapter violations; offenses

Sec. 6. A person who violates this chapter commits a Class A misdemeanor.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-7 Injunctive relief

Sec. 7. (a) This section is in addition to the penalty imposed under section 6 of this chapter.

(b) Whenever there is a violation of this chapter, the attorney general may seek an injunction in a circuit or superior court with jurisdiction in the county where the violation occurred to enjoin and restrain the continuance of the violation.

(c) If the court finds that the defendant has violated this chapter, an injunction may be issued by the court enjoining and restraining any further violation without requiring proof that any person has been injured or damaged by the defendant's action.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-8 Notice of intent to bring action against referral service; opportunity to cure violation

Sec. 8. (a) No legal action under this chapter may be commenced by the attorney general against a for-profit dental referral service until the attorney general has given the service thirty (30) days written notice of the violation.

(b) Notice under subsection (a) must comply with the following:

(1) Be sent by registered or certified mail, return receipt requested.

(2) Include a copy of the code sections of the chapter alleged to have been violated.

(3) Describe the alleged unlawful advertising.

(4) Include a statement that the for-profit dental referral service has the lesser of:

(A) thirty (30) days from the date the notice was received; or

(B) thirty-five (35) days from the date the notice was sent; to cure the violation.

(c) A for-profit dental service that does not cure a violation within the time period required under subsection (b) is subject to sections 6 and 7 of this chapter.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-9 Rules and guidelines

Sec. 9. Before January 2, 1994, the state board of dentistry established by IC 25-14-1-2 shall adopt rules under IC 4-22-2 that may include the following:

(1) Guidelines regarding the referral of subscribing dentists for specialty services.

(2) Guidelines for ensuring that patient referrals by the for-profit dental referral service must be initiated by a patient.

(3) Guidelines for ensuring that the for-profit dental referral service does not impose a fee on the subscribing dentists dependent upon the number of referrals or the amount of professional fees paid by the patient to the dentist.

(4) Guidelines for ensuring there is a prohibition against for-profit dental referral services limiting dentist subscribers solely on the basis of a dentist's exclusive geographic location.

(5) Guidelines regarding dentists basing fees on services performed with no additional fee charged because the patient is a referral.

(6) Guidelines for preventing for-profit dental referral service advertisements that are false, misleading, or deceptive.

(7) Guidelines considering the content of disclaimers required in section 4 of this chapter for dental referral services that advertise on television or any other medium that combine audio and video. Such guidelines may require both audio and visual disclaimers.

(8) A procedure for a for-profit dental referral service to forward complaints to the proper state authority.

(9) Appropriate safeguards to ensure that all subscribing dentists are fairly selected for referrals on a rotating basis.

(10) Guidelines for ensuring that a for-profit dental referral service must charge each subscribing dentist in the same advertising market the same fee to become a member of the service.

As added by P.L.33-1993, SEC.23. Amended by P.L.24-1999, SEC.16.

Dental Care Information for Indiana Children

IC 12-13-15.2-1

Providing lists of dentists

Sec. 1. Each county office of family and children shall provide to the following entities in the county a list of dentists practicing in the county who provide dental services under the Medicaid program (IC 12-15) or the children's health insurance program (IC 12-17.6):

(1) Head Start programs (42 U.S.C. 9831 et seq.).

(2) Women, infants, and children nutrition programs (as defined in IC 16-35-1.5-5).

(3) Maternal and child health clinics (as defined in IC 16-46-5-5).

(4) The local health department.

(5) School nurses appointed under IC 20-8.1-7-5.

(6) Child care centers licensed under IC 12-17.2-4.

(7) The township trustees.
As added by P.L.169-2001, SEC.1.

IC 12-13-15.2-2

Collaboration in establishing programs

Sec. 2. The division shall collaborate with the office of Medicaid policy and planning established by IC 12-8-6-1 and the state department of health established by IC 16-19-1-1 to establish programs that facilitate children's access to oral health services.

As added by P.L.169-2001, SEC.1.

IC 12-15-10-6

Selection of primary dental provider encouraged

Sec. 6. The office shall encourage the parent of a child who is a recipient of Medicaid to select a primary dental provider for the child before the child is eighteen (18) months of age.

As added by P.L.169-2001, SEC.2.

IC 12-17.6-4-7

Selection of primary dental provider encouraged

Sec. 7. The office shall encourage the parent of a child who is enrolled in the program to select a primary dental provider for the child before the child is eighteen (18) months of age.

As added by P.L.169-2001, SEC.3.

IC 25-1-4 Continuing Education

IC 25-1-4-0.3

"Board" defined

Sec. 0.3. As used in section 3 of this chapter, "board" means any of the following:

- (1) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (2) Indiana athletic trainers board (IC 25-5.1-2-1).
- (3) Board of chiropractic examiners (IC 25-10-1).
- (4) State board of dentistry (IC 25-14-1).
- (5) Indiana dietitians certification board (IC 25-14.5-2-1).
- (6) Indiana state board of health facility administrators (IC 25-19-1).
- (7) Committee on hearing aid dealer examiners (IC 25-20-1-1.5).
- (8) Indiana hypnotist committee (IC 25-20.5-1-7).
- (9) Medical licensing board of Indiana (IC 25-22.5-2).
- (10) Indiana state board of nursing (IC 25-23-1).
- (11) Occupational therapy committee (IC 25-23.5).
- (12) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (13) Indiana optometry board (IC 25-24).
- (14) Indiana board of pharmacy (IC 25-26).
- (15) Indiana physical therapy committee (IC 25-27-1).
- (16) Physician assistant committee (IC 25-27.5).
- (17) Board of podiatric medicine (IC 25-29-2-1).
- (18) Board of environmental health specialists (IC 25-32).
- (19) State psychology board (IC 25-33).
- (20) Respiratory care committee (IC 25-34.5).
- (21) Speech-language pathology and audiology board (IC

25-35.6-2).

As added by P.L.269-2001, SEC.2.

IC 25-1-4-0.6

"Practitioner" defined

Sec. 0.6. As used in section 3 of this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued by the board regulating the profession in question.

As added by P.L.269-2001, SEC.3.

IC 25-1-4-1

Requirement

Sec. 1. No board or agency regulating a profession or occupation under this title or under IC 15, IC 16, or IC 22 may require continuing education as a condition of certification, registration, or licensure unless so specifically authorized or mandated by statute.

As added by Acts 1981, P.L.222, SEC.1.

IC 25-1-4-2

Promotion

Sec. 2. A board or agency regulating a profession or occupation under this title or under IC 15, IC 16, or IC 22 may cooperate with members of the profession or occupation it regulates to promote continuing education within the profession or occupation.

As added by Acts 1981, P.L.222, SEC.1.

IC 25-1-4-3

Sworn statements of compliance; retention of copies of certificates of completion; audits

Sec. 3. (a) Notwithstanding any other law, a board that is specifically authorized or mandated to require continuing education as a condition to renew a registration, certification, or license must require a practitioner to comply with the following renewal requirements:

(1) The practitioner shall provide the board with a sworn statement signed by the practitioner that the practitioner has fulfilled the continuing education requirements required by the board.

(2) The practitioner shall retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied. The practitioner shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit.

(b) Every two (2) years the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the practitioners required to take continuing education courses.

As added by P.L.269-2001, SEC.4.

IC 25-1-4-3.2

Distance learning methods

Sec. 3.2. A board or agency regulating a profession or occupation under this title or under IC 15, IC 16, or IC 22 shall

require that at least one-half (50%) of all continuing education requirements must be allowed by distance learning methods, except for doctors, nurses, chiropractors, optometrists and dentists.

As added by P.L.227-2001, SEC.1.

IC 25-1-4-4 Waiver

Sec. 4. A board, a commission, a committee, or an agency regulating a profession or occupation under this title or under IC 15, IC 16, or IC 22 may grant an applicant a waiver from all or part of the continuing education requirement for a renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following:

- (1) Service in the armed forces of the United States during a substantial part of the renewal period.
- (2) An incapacitating illness or injury.
- (3) Other circumstances determined by the board or agency.

As added by Acts 2004, SB 493, SEC. 1.

IC 25-1-8

Chapter 8. Occupational and Professional Licensure, Registration, and Certification Fees

IC 25-1-8-6 Reinstatement of delinquent or lapsed license

Sec. 6. (a) As used in this section, "board" has the meaning set forth in IC 25-1-4-0.3.

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

- (1) Submission of the holder's completed renewal application.
- (2) Payment of the current renewal fee established by the board under section 2 of this chapter.
- (3) Payment of a reinstatement fee established by the health professions bureau.
- (4) If a law requires the holder to complete continuing education as a condition of renewal, the holder shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board for the current renewal period.
- (d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

- (1) Submission of the holder's completed renewal application.
- (2) Payment of the current renewal fee established by the board under section 2 of this chapter.
- (3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board for the current renewal period.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

As added by P.L.269-2001, SEC.5.

IC 25-1-9

Chapter 9. Health Professions Standards of Practice

IC 25-1-9-1 "Board" defined

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32).
- (10) Speech-language pathology and audiology board (IC 25-35.6-2).
- (11) State psychology board (IC 25-33).
- (12) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (13) Indiana physical therapy committee (IC 25-27-1).
- (14) Respiratory care committee (IC 25-34.5).
- (15) Occupational therapy committee (IC 25-23.5).
- (16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (17) Physician assistant committee (IC 25-27.5).
- (18) Indiana athletic trainers board (IC 25-5.1-2-1).
- (19) Indiana dietitians certification board (IC 25-14.5-2-1).
- (20) Indiana hypnotist committee (IC 25-20.5-1-7).

As added by P.L.152-1988, SEC.1. Amended by P.L.242-1989, SEC.7; P.L.238-1989, SEC.7; P.L.186-1990, SEC.7; P.L.48-1991, SEC.20; P.L.227-1993, SEC.7; P.L.33-1993, SEC.14; P.L.213-1993, SEC.4; P.L.1-1994, SEC.122; P.L.124-1994, SEC.6; P.L.175-1997, SEC.6; P.L.147-1997, SEC.10; P.L.84-1998, SEC.5; P.L.24-1999, SEC.6.

IC 25-1-9-2 "Practitioner" defined

Sec. 2. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20. As added by P.L.152-1988, SEC.1.

IC 25-1-9-3 "License" defined

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit. As added by P.L.152-1988, SEC.1.

IC 25-1-9-3.5 "Sexual Contact" defined

Sec. 3.5. As used in this chapter, "sexual contact" means:

- (1) sexual intercourse (as defined in IC 35-41-1-26);
 - (2) deviate sexual conduct (as defined in IC 35-41-1-9); or
 - (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the individual performing the fondling or touching or the individual being fondled or touched.
- As added by P.L.200-2001, SEC.1.

IC 25-1-9-4 Professional standards; types of conduct prohibited; certified copy of record as conclusive evidence

Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (1) a practitioner has:
 - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice;
 - (B) engaged in fraud or material deception in the course of professional services or activities; or
 - (C) advertised services in a false or misleading manner;
- (2) a practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;
- (3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question;
- (4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:
 - (A) professional incompetence that:
 - (i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and
 - (ii) does not include activities performed under IC 16-21-2-9;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;
- (7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any other state or jurisdiction on grounds similar to those under this

chapter;

- (8) a practitioner has diverted:
 - (A) a legend drug (as defined in IC 16-18-2-199); or
 - (B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;
- (9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitue or addict;

(10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter; ~~or~~

(11) a practitioner has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the practitioner's care; or

(12) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization.

(b) A practitioner who provides health care services to the practitioner's spouse is not subject to disciplinary action under subsection (a)(11).

(c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).

As added by P.L.152-1988, SEC.1. Amended by P.L.2-1993, SEC.136; P.L.149-1997, SEC.7; P.L.22-1999, SEC.4; P.L. 200-2001, SEC.2; P.L.203-2001, SEC.3; P.L.1-2002, SEC.96.

IC 25-1-9-5 Optometrists; sanctions; prohibited employment

Sec. 5. In addition to section 4 of this chapter, a practitioner licensed to practice optometry is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has accepted employment to practice optometry from a person other than:

- (1) a corporation formed by an optometrist under IC 23-1.5; or
 - (2) an individual who is licensed as an optometrist under this article and whose legal residence is in Indiana.
- As added by P.L.152-1988, SEC.1.

IC 25-1-9-6 Veterinarians or veterinary technicians; sanctions; cruelty to animals

Sec. 6. In addition to section 4 of this chapter, a practitioner licensed to practice veterinary medicine or registered as a veterinary technician is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has engaged in cruelty to animals. As added by P.L.152-1988, SEC.1.

IC 25-1-9-6.5 Waiver of deductible or a copayment

Sec. 6.5. (a) In addition to section 4 of this chapter, a practitioner licensed to practice chiropractic is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds a practitioner has:

- (1) waived a payment of a deductible or a copayment required to be made to the practitioner by a patient under the patient's insurance or health care plan; and

(2) advertised the waiver of a payment described in subdivision (1).

(b) This section does not apply to the waiver of a deductible or a copayment by a practitioner if:

(1) the practitioner determines chiropractic service is necessary for the immediate health and welfare of a patient;

(2) the practitioner determines the payment of a deductible or a copayment would create a substantial financial hardship for the patient; and

(3) the waiver is based on the evaluation of the individual patient and is not a regular business practice of the practitioner. As added by P.L.151-1989, SEC.9.

IC 25-1-9-6.7 Additional professional standards for licensees under IC 25-23.6

Sec. 6.7. In addition to the actions listed under section 4 of this chapter that subject a practitioner to the exercise of disciplinary sanctions, a practitioner who is licensed under IC 25-23.6 is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds that the practitioner has:

(1) performed any therapy that, by the prevailing standards of the mental health professions in the community where the services were provided, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent;

(2) failed to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance in professional activities, including the undertaking of activities that the practitioner is not qualified by training or experience to undertake;

(3) performed services, including any duties required of the individual under IC 31, in reckless disregard of the best interests of a patient, a client, or the public;

(4) without the consent of the child's parent, guardian, or custodian, knowingly participated in the child's removal or precipitated others to remove a child from the child's home unless:

(A) the child's physical health was endangered due to injury as a result of the act or omission of the child's parent, guardian, or custodian;

(B) the child had been or was in danger of being a victim of an offense under IC 35-42-4, IC 35-45-4-1, IC 35-45-4-2, IC 35-46-1-3, IC 35-49-2-2, or IC 35-49-3-2; or

(C) the child was in danger of serious bodily harm as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, shelter, or medical care, and a court order was first obtained;

(5) willfully made or filed a false report or record, failed to file a report or record required by law, willfully impeded or obstructed the filing of a report or record, or induced another individual to:

(A) make or file a false report or record; or

(B) impede or obstruct the filing of a report or record; or

(6) performed a diagnosis (as defined in IC 25-22.5-1-1.1(c));

(7) provided evidence in an administrative or judicial proceeding that had insufficient factual basis for the conclusions rendered by the practitioner;

(8) willfully planted in the mind of the patient suggestions that are not based in facts known to the practitioner; or

(9) performed services outside of the scope of practice of

the license issued under IC 25-23.6.

As added by P.L.147-1997, SEC.11. Amended by P.L.2-1998, SEC.65.

IC 25-1-9-6.8 Prescribing stimulant medication for a child; guidelines

Sec. 6.8. (a) This section applies to a practitioner who is: (1) licensed to practice medicine or osteopathic medicine under IC 25-22.5; or

(2) an advanced practice nurse granted prescriptive authority under IC 25-23, and whose practice agreement with a collaborating physician reflects the conditions specified in subsection (b).

(b) Before prescribing a stimulant medication for a child for the treatment of attention deficit disorder or attention deficit hyperactivity disorder, a practitioner described in subsection (a) shall follow the most recent guidelines adopted by the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry for the diagnosis and evaluation of a child with attention deficit disorder or attention deficit hyperactivity disorder. As added by P.L. 107-2002, SEC. 27.

IC 25-1-9-6.9 Additional professional standards; failure to provide information; providing false information

Sec. 6.9. In addition to the actions listed under section 4 of this chapter that subject a practitioner to disciplinary sanctions, a practitioner is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds that the practitioner has:

(1) failed to provide information requested by the bureau; or

(2) knowingly provided false information to the bureau; for a provider profile required under IC 25-1-5-10.

As added by P.L.211-2001, SEC.2.

IC 25-1-9-7

Physical or mental examination; power to require

Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, at the practitioner's own expense, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.2.

IC 25-1-9-8 Failure to submit to examination; summary suspension

Sec. 8. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 10 of this chapter. As added by P.L.152-1988, SEC.1.

IC 25-1-9-9 Sanctions; modification or withdrawal of probation

Sec. 9. (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4, 5, 6, 6.7, or 6.9 of this chapter or IC 25-1-5-4:

(1) Permanently revoke a practitioner's license.

(2) Suspend a practitioner's license.

(3) Censure a practitioner.

(4) Issue a letter of reprimand.

(5) Place a practitioner on probation status and require the practitioner to:

- (A) report regularly to the board upon the matters that are the basis of probation;
- (B) limit practice to those areas prescribed by the board;
- (C) continue or renew professional education under a preceptor, or as otherwise directed or approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
- (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation listed in section 4 of this chapter, except for a finding of incompetency due to a physical or mental disability. When imposing a fine, the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine.

(b) The board may withdraw or modify the probation under subsection (a)(5) if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.

As added by P.L.152-1988, SEC.1. Amended by P.L.48-1991, SEC.21; P.L.22-1999, SEC.5; P.L.32-2000, SEC.10; P.L.211-2001, SEC.3.

IC 25-1-9-10 Summary suspension of license; opportunity to be heard

Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under IC 15-5-1.1, IC 25-22.5 or IC 25-14, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

- (1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and

(2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

As added by P.L.152-1988, SEC.1. Amended by P.L.43-1995, SEC.2; P.L.71-2000, SEC.18.

IC 25-1-9-10.1 Retention of clinical consultants and experts to advise on suspension

Sec. 10.1. The attorney general may retain the services of a clinical consultant or an expert to provide the attorney general with advice concerning the acts that are the subject of a suspension under this chapter.

As added by P.L.43-1995, SEC.3.

IC 25-1-9-11 Reinstatement of suspended license

Sec. 11. The board may reinstate a license which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-12 Reinstatement of revoked license

Sec. 12. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-13 Consistency in application of sanctions

Sec. 13. The board shall seek to achieve consistency in the application of the sanctions authorized in this section. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-14 Surrender of license

Sec. 14. A practitioner may petition the board to accept the surrender of the practitioner's license instead of a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-15

Costs in disciplinary proceedings

Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.

(7) Expert witnesses.
(8) Depositions.
(9) Notarizations.
(10) Administrative law judges.
As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.3.

IC 25-1-9-16 Refusal of licensure or grant of probationary license

Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

(1) the applicant has been disciplined by a licensing entity of another state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the board.

(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

As added by P.L.33-1993, SEC.15. Amended by P.L.32-2000, SEC.11.

IC 25-1-9-17 Applicant appearance before board or controlled substances advisory committee

Sec. 17. The board and the controlled substances advisory committee (IC 35-48-2-1) may require an applicant for licensure to appear before the board or committee before issuing a license.

As added by P.L.33-1993, SEC.16.

IC 25-1-9-18 Fitness determination of health care provider; filing of complaint

Sec. 18. (a) If the insurance commissioner forwards to the board the name of a practitioner under IC 34-18-9-4(a) (or IC 27-12-9-4(a) before its repeal), the board shall consider whether:

(1) the practitioner has become unfit to practice under section 4 of this chapter; and

(2) a complaint should be filed under IC 25-1-7-4.

(b) If the board determines that a complaint should be filed under subsection (a), the board must report to the consumer protection division whether the board will schedule the matter:

(1) for informal negotiation under IC 25-1-7-6;

(2) on the board's agenda for a vote requesting that the attorney general prosecute the matter before the board under IC 25-1-7-7; or

(3) on the board's agenda for a vote on summary

suspension of the practitioner's license pending prosecution of the matter before the board under IC 25-1-7-7.

(c) A board may designate a board member or staff member to act on behalf of the board under this section.

As added by P.L.43-1995, SEC.4. Amended by P.L.1-1998, SEC.131.

IC 25-1-9-19

Third party billing notice

Sec. 19. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

As added by P.L.178-2003, SEC.12.

IC 25-1-12 Renewal of Licenses Held by Individuals in Military Service

IC 25-1-12-1 Application of chapter

Sec. 1. This chapter applies to an individual who:

(1) holds a license, certificate, registration, or permit under this title, IC 15, IC 16, or IC 22; and

(2) is called to active duty.

As added by Acts 2004, SB 493, SEC. 2.

IC 25-1-12-2 "Active duty" defined

Sec. 2. As used in this chapter, "active duty" means full-time service in the:

(1) armed forces of the United States; or

(2) national guard;

for a period that exceeds thirty (30) consecutive days in a calendar year.

As added by Acts 2004, SB 493, SEC. 2.

IC 25-1-12-3 "Armed forces of the United States" defined

Sec. 3. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

(1) the army;

(2) the navy;

(3) the air force;

(4) the coast guard;

(5) the marine corp; or

(6) the merchant marine.

IC 25-1-12-4 "National guard" defined

Sec. 4. As used in this chapter, "national guard" means:

(1) the Indiana army national guard; or

(2) the Indiana air national guard.

As added by Acts 2004, SB 493, SEC. 2.

IC 25-1-12-5 "Practitioner" defined

Sec. 5. As used in this chapter, "practitioner" means an individual who holds:

(1) an unlimited license, certificate, or registration;

(2) a limited or probationary license, certificate, or registration;

(3) a temporary license, certificate, registration, or permit;

(4) an intern permit; or

(5) a provisional license;

issued under this title or IC 15, IC 16, or IC 22.
As added by Acts 2004, SB 493, SEC. 2.

IC 25-1-12-6 Renewal, extension of time for practitioners on active duty; requirements

Sec. 6. (a) Notwithstanding any other law, a practitioner who is called to active duty out-of-state and meets the requirements of subsection (b) is entitled to an extension of time described in subsection (c) to:

(1) renew; and

(2) complete the continuing education required by the practitioner's license, certificate, registration, or permit.

(b) The practitioner must meet the following requirements to receive the extension of time provided under subsection (a):

(1) On the date the practitioner enters active duty, the practitioner's license, certificate, registration, or permit may not be revoked, suspended, lapsed, or be the subject of a complaint under IC 25-1-7.

(2) While the practitioner is out-of-state on active duty:

(A) the practitioner's license, certificate, registration, or permit must expire; and

(B) the practitioner must not have received the notice of expiration before the date the practitioner entered active duty.

(3) The practitioner shall provide proof of out-of-state active duty by providing a copy of the practitioner's:

(A) discharge; or

(B) government movement orders;

to the agency issuing the practitioner's license, certificate, registration, or permit at the time the practitioner renews the practitioner's license, certificate, registration, or permit under this chapter.

(c) The extension of time provided under subsection (a) is equal to one hundred eighty (180) days after the date of the practitioner's discharge or release from active duty.

(d) The agency or board that issued the practitioner's license, certificate, registration, or permit may extend the period provided in subsection (c) if the agency or board determines that an illness, an injury, or a disability related to the practitioner's active duty prevents the practitioner from renewing or completing the continuing education required for the practitioner's license, certificate, registration, or permit. However, the agency may not extend the period for longer than three hundred sixty-five (365) days after the date of the practitioner's discharge or release from active duty.

As added by Acts 2004, SB 493, SEC. 21.

IC 25-1-12-7 Late fees; waiver

Sec. 7. Any late fees that may be assessed against a practitioner in connection with a renewal under this chapter are waived.

As added by Acts 2004, SB 493, SEC. 2.

IC 25-1-12-8 Construing of chapter

Sec. 8. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of:

(1) the armed forces of the United States; or

(2) the national guard;

under federal law.

As added by Acts 2004, SB 493, SEC. 2.

Non-Code Provision

IC 25-1-12, as added by this act, applies to all individuals who: (1) hold a license, certificate, registration, or permit under IC 15, IC 16, IC 22, or IC 25; and

(2) have been called to full-time service in the:

(A) armed forces of the United States (as defined in IC 25-1-12-3, as added by this act); or

(B) Indiana army or air national guard;

after September 11, 2001.

As added by Acts 2004, SB 493, SEC. 3.

TITLE 828 STATE BOARD OF DENTISTRY

NOTE: Under IC 25-14-1-1.5, the name of the board of dental examiners is changed to state board of dentistry, effective July 1, 1999.

ARTICLE 0.5. GENERAL PROVISIONS

Rule 1. Definitions

828 IAC 0.5-1-1 Definitions

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 1. The definitions in this rule apply throughout this title. (*State Board of Dentistry; 828 IAC 0.5-1-1; filed Apr 25, 1983, 8:52 a.m.: 6 IR 1085; filed Aug 29, 1986, 2:30 p.m.: 10 IR 19; filed Dec 2, 1987, 9:34 a.m.: 11 IR 1285; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2235; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-2 "Advanced cardiac life support" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 2. "Advanced cardiac life support" means the ability to apply the principles and protocols of cardiac and pulmonary resuscitation necessitated by pharmacologic agents and/or pathology. (*State Board of Dentistry; 828 IAC 0.5-1-2; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2235; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-3 "Advanced cardiac life support instructor" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 3. "Advanced cardiac life support instructor" means one who has successfully completed a course in advanced cardiac life support and has been recommended for and successfully completed an instructor's course in advanced cardiac life support. (*State Board of Dentistry; 828 IAC 0.5-1-3; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2235; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-4 "Basic cardiac life support" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 4. "Basic cardiac life support" means the successful completion of a course in artificial respiration and cardiac compression which enables the applicant to sustain life in an arrest state. (*State Board of Dentistry; 828 IAC 0.5-1-4; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2235; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-5 "Board" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1-2

Sec. 5. "Board" means the state board of dental examiners established under IC 25-14-1-2. (*State Board of Dentistry; 828 IAC 0.5-1-5; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2235; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-6 "Candidate" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 6. "Candidate" refers to any person who desires to obtain a license to practice dental hygiene or a license to practice dentistry. (*State Board of Dentistry; 828 IAC 0.5-1-6; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2235; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-7 "Deep sedation" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 7. "Deep sedation" means a controlled state of consciousness, accompanied by a partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic method. (*State Board of Dentistry; 828 IAC 0.5-1-7; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2235; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-8 "General anesthesia" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 8. "General anesthesia" means a controlled state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic method. (*State Board of Dentistry; 828 IAC 0.5-1-8; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2236; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-9 "Light parenteral conscious sedation" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 9. "Light parenteral conscious sedation" means a minimally depressed level of consciousness, under which an individual retains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by an intravenous pharmacological method. (*State Board of Dentistry; 828 IAC 0.5-*

1-9; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2236; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

828 IAC 0.5-1-9.5 "Resuscitation protocols" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 9.5. "Resuscitation protocols" means procedures which can be utilized to support a patient experiencing life threatening cardiac or respiratory conditions, including complete cardiac and respiratory arrest which procedures include, but are not limited to, the following:

- (1) Establishment and management of an airway.
- (2) Establishment and management of intravenous access.
- (3) Basic cardiopulmonary resuscitation.
- (4) Administration of medication and intravenous fluids for enhanced cardiac and respiratory support.
- (5) Defibrillation.
- (6) Notification of emergency medical personnel outside the office.

(*State Board of Dentistry; 828 IAC 0.5-1-9.5; filed Oct 14, 1993, 5:00 p.m.: 17 IR 402; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 0.5-1-10 "Training in advanced cardiac life support" defined

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-13-1-2; IC 25-14-1

Sec. 10. "Training in advanced cardiac life support" means the successful completion of a course of study approved by the board which includes, at a minimum, the following:

- (1) Lecture and hands-on use of:
 - (A) airway maintenance devices;
 - (B) endotracheal intubation;
 - (C) establishment and maintenance of intravenous cannulation; and
 - (D) a cardiac defibrillator.
- (2) Lecture on:
 - (A) electrocardiogram interpretation;
 - (B) pharmacology of resuscitation;
 - (C) protocols for resuscitation of cardiac and respiratory arrest;
 - (D) cardiac physiology; and
 - (E) pulmonary physiology.

- (3) Testing on:
 - (A) the ability to perform endotracheal intubation and use of airway aids;
 - (B) the application of resuscitation protocols in scenarios where the applicant must be in charge of a team which diagnoses and resuscitates various arrest states; and
 - (C) electrocardiogram (EKG) interpretation, physiology, pharmacology, and pathology of the respiratory and cardiac systems by written examination.

(*State Board of Dentistry; 828 IAC 0.5-1-10; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2236; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

Rule 2. Fees

828 IAC 0.5-2-1 Fees (Repealed)

Sec. 1. (Repealed by State Board of Dentistry; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1181)

828 IAC 0.5-2-2 Fees for anesthesia and sedation permits (Repealed)

Sec. 2. (Repealed by State Board of Dentistry; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1181)

828 IAC 0.5-2-3 Dental fees

Authority: IC 23-1.5-2-9; IC 23-1.5-2-10; IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13; IC 25-14-1-27.5
Affected: IC 25-13-1-8; IC 25-14-1-10

Sec. 3. The board shall charge and collect the following fees related to the practice of dentistry:

- (1) Application for licensure \$250
- (2) Repeat law examination only \$25
- (3) License renewal \$100 biennially
- (4) Dental intern permit application \$10
- (5) Dental intern permit renewal \$50
- (6) Verification of dental licensure to another State of Indiana \$10
- (7) Duplicate wall license \$10
- (8) Professional corporation registration application \$25
- (9) Professional corporation registration renewal \$20 biennially
- (10) Application fees for the following permits:
 - (A) General anesthesia, deep sedation (GADS) \$50
 - (B) Light parenteral conscious sedation (LPCS) \$50
- (11) Renewal fees for the following permits:
 - (A) General anesthesia-deep sedation (GADS) \$50 biennially
 - (B) Light parenteral conscious sedation (LPCS) \$50 biennially
- (12) Registration of an additional office in which to administer general anesthesia, deep sedation, GADS or light parenteral conscious sedation (LPCS) \$25
- (13) Reinstatement of inactive license \$250
- (14) Instructor's license application \$250
- (15) Instructor's license renewal \$50 annually
- (16) Instructor's application for the following permits:
 - (A) GADS \$50
 - (B) LPCS \$50
- (17) Renewal fee for instructor's GADS/LPCS permit \$25 annually

(State Board of Dentistry; 828 IAC 0.5-2-3; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1180; filed Oct 8, 2002, 12:40 p.m.: 26 IR 376; filed Apr 18, 2005, 2:00 p.m.: 28 IR 2713; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2538)

828 IAC 0.5-2-4 Dental hygiene fees

Authority: IC 23-1.5-2-9; IC 23-1.5-2-10; IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13
Affected: IC 25-13-1-8; IC 25-14-1-10

Sec. 4. The board shall charge and collect the following fees related to the practice of dental hygiene:

- (1) Application for licensure \$100
- (2) Repeat law examination only \$25
- (3) License renewal \$50 biennially
- (4) Dental hygiene intern permit application \$50
- (5) Dental hygiene intern permit renewal \$25
- (6) Verification of dental hygiene licensure to another state \$10
- (7) Duplicate wall license \$10
- (8) Reinstatement of inactive license \$100

(State Board of Dentistry; 828 IAC 0.5-2-4; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1181; filed Oct 8, 2002, 12:40 p.m.: 26 IR 376; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2539)

828 IAC 0.5-2-5 Registration of mobile dental facilities and portable dental operations

Authority: IC 25-14-1-13
Affected: IC 25-14

Sec. 3. The board shall charge and collect the following fees related to the registration of mobile dental facilities and portable dental operations:

- (1) Application \$200
- (2) Registration renewal \$100

(State Board of Dentistry; 828 IAC 0.5-2-5, filed May 2, 2002)

828 IAC 0.5-2-6 Continuing education; sponsor approval fees

Authority: IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13
Affected: IC 25-13-1-8; IC 25-13-2-2; IC 25-14-1-10; IC 25-14-3-2

Sec. 6. (a) This section applies to study clubs applying for approval under IC 25-13-2-2(12) or IC 25-14-3-2(12).

(b) This section applies to organizations or individuals applying for approval under IC 25-13-2-2(18) or IC 25-14-3-2(18).

(c) The board shall charge and collect the following fees related to the approval of study clubs, organizations, and individuals as sponsors of continuing education:

- (1) Study club application for approval \$250
- (2) Organization or individual application for approval \$250

(State Board of Dentistry; 828 IAC 0.5-2-6; filed Oct 8, 2002, 12:43 p.m.: 26 IR 371)

ARTICLE 1. LICENSURE OF DENTISTS AND DENTAL HYGIENISTS

Rule 1. Dentists; Licensure by Examination

828 IAC 1-1-1 Qualifications of applicants; approved dental schools

Authority: IC 25-14-1-13

Affected: IC 25-14-1-16

Sec. 1. All applicants for licensure to practice dentistry must:

- (1) have graduated from a dental school accredited by the Commission on Accreditation of the American Dental Association; and
- (2) submit certification of having completed, within the prior year, an American Red Cross or American Heart Association cardiopulmonary resuscitation course or another course approved by the board.

(State Board of Dentistry; PT 1, Rule 1; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 48; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 191; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2189; filed Oct 12, 1993, 5:00 p.m.: 17 IR 399; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2539)

828 IAC 1-1-2 Application forms

Authority: IC 4-1-8-1; IC 25-14-1-13

Affected: IC 25-14-1-3; IC 25-14-1-16

Sec. 2. (a) The applicant for licensure must complete the application on forms prescribed and provided by the board. All statements contained in the application must be verified by the applicant. The verified application, fees, and other documents that the board may require must be submitted to the board.

(b) The following proof that the applicant is a graduate of a dental school that is recognized by the board must be submitted:

- (1) An official transcript showing the date the degree was conferred.
- (2) An official diploma or a certificate of completion signed by the:
 - (A) dean of the applicant's professional school; and
 - (B) registrar of the university or college.
- (c) Additional documents to be submitted by the applicant for a license include the following:
 - (1) Where the name on any document differs from the applicant's name, one (1) of the following:
 - (A) A notarized or certified copy of a marriage certificate.
 - (B) Legal proof of a name change.
 - (2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks before filing of the application.
 - (3) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been convicted. This notarized statement must include the following:
 - (A) The offense of which the applicant was convicted.
 - (B) The court in which the applicant was convicted.
 - (C) The cause number under which the applicant was convicted.
 - (D) The penalty imposed by the court.
 - (4) An applicant who is now, or has been, licensed to practice any health profession in another state or Canadian province must submit verification of license status. This information must

be sent by the state or province that issued the license directly to the Indiana board.

(5) An applicant who is now, or has been, licensed to practice any health profession in another state shall submit a self-query form completed by the following:

(A) The National Practitioner Data Bank (NPDB).

(B) The Healthcare Integrity and Protection Data Bank (HIPDB) data bank.

(d) All applicants must submit the applicant's United States Social Security number in order to be eligible for licensure. (State Board of Dentistry; PT 1, Rule 2; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 49; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 191; filed Oct 16, 1985, 3:57 p.m.: 9 IR 520; filed Oct 12, 1993, 5:00 p.m.: 17 IR 400; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2239; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2540)

828 IAC 1-1-3 Examinations required for licensure

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 3. In order to obtain an Indiana license to practice dentistry, each applicant must pass an examination that includes the following:

- (1) All sections of the national dental board examination.
- (2) A clinical examination.
- (3) A written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(State Board of Dentistry; PT 1, Rule 3; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 49; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2239; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2278; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2540)

828 IAC 1-1-4 Supervision of examinations; candidate identification numbers (Repealed)

Sec. 4. (Repealed by State Board of Dentistry; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2246)

828 IAC 1-1-5 Written examination; scope (Repealed)

Sec. 5. (Repealed by State Board of Dentistry; filed Nov 7, 1986, 9:00 am: 10 IR 432)

828 IAC 1-1-6 National board examination; dental and dental hygiene law examinations

Authority: IC 25-14-1-13

Affected: IC 25-14-1-13

Sec. 6. (a) A passing score on a national board dental examination, as approved by the board, must be achieved by the applicant before the applicant will be permitted to take the written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) Passage of the Indiana dental and dental hygiene law examination with a score of at least seventy-five (75) is mandatory before the applicant may be licensed. Applicants failing the law examination may retake the law examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the law examination was last

taken. (State Board of Dentistry; PT 1, Rule 6; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16,

1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Apr 12, 1984, 8:34 a.m.: 7 IR 1520; filed Nov 7, 1986, 9:00 a.m.: 10 IR 431; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2279; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2541)

828 IAC 1-1-7 Clinical examination

Authority: IC 25-1-8-5; IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 7. To be eligible for licensure by examination, an applicant must meet any one (1) of the following clinical examination requirements:

(1) Have passed all parts of one (1) of the following examinations within the five (5) year period immediately before the date of the board's receipt of the applicant's application:

(A) The Central Regional Dental Testing Service (CRDTS) examination.

(B) The North East Regional Board (NERB) examination.

(C) The Southern Regional Testing Agency (SRTA) examination.

(D) The Western Regional Examining Board (WREB) examination.

(2) Have taken an examination administered by the board and received a passing score as established by the board.

(State Board of Dentistry; PT 1, Rule 7; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Oct 12, 1993, 5:00 p.m.: 17 IR 400; filed Sep 11, 2000, 2:23 p.m.: 24 IR 377; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2279; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2541)

828 IAC 1-1-8 Supplies for examinations; duty to provide (Repealed)

Sec. 8. (Repealed by State Board of Dentistry; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545)

828 IAC 1-1-9 Conduct during written examinations

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 9. The candidates are not allowed to leave the room nor move about in the room during a written examination without permission. No other paper or books, other than the written examination and answer sheet, shall be used in examination room for any purpose whatsoever. (State Board of Dentistry; PT 1, Rule 9; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240)

828 IAC 1-1-10 Dismissal of candidate for use of unfair assistance

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 10. The board reserves the right to dismiss any candidate who may be detected in using, or attempting to use, any unfair assistance for himself or herself or another candidate. (State Board of Dentistry; PT 1, Rule 10; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240)

828 IAC 1-1-11 Other considerations in grading examinations (Repealed)

Sec. 11. (Repealed by State Board of Dentistry; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2246)

828 IAC 1-1-12 Failure; reexamination (Repealed)

Sec. 12. (Repealed by State Board of Dentistry; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545)

828 IAC 1-1-12.1 Invalid license; reapplication (Repealed)

Sec. 12.1. (Repealed by State Board of Dentistry; filed Oct 29, 1991, 3:00 p.m.: 15 IR 242)

828 IAC 1-1-13 Registration of office addresses; notice of discontinuance; duplicate licenses

Authority: IC 25-14-1-12; IC 25-14-1-13

Affected: IC 25-14-1

Sec. 13. (a) Dentists licensed and practicing in the state of Indiana must register the address(es) of all their offices located within the state with the state board of dental examiners within thirty (30) days of the establishment of such office(s) and notify the board of the discontinuation of an office(s) within thirty (30) days.

(b) A duplicate license to practice dentistry or dental hygiene in Indiana will be issued upon written, verified request and payment of the required fee. The request shall state the address(es) at which the license will be used. (State Board of Dentistry; 828 IAC 1-1-13; filed Nov 7, 1980, 12:45 pm: 3 IR 2190; filed Oct 16, 1985, 3:57 pm: 9 IR 521; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

828 IAC 1-1-14 Advertising

Authority: IC 25-14-1-12; IC 25-14-1-13;

IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-1; IC 25-14-4

Sec. 14. (a) Any advertisement for dental treatment shall include the names of the licensed dentists associated with such treatment or treatment facility or employed by the treatment facility or another dentist.

(b) Advertisements listed in telephone directories, or other such advertisements which are listed once a year, must include the names of the licensed dentists associated with the treatment or treatment facility or employed by the treatment

facility or another dentist as of the date the contract is made to run the advertisement.

(c) A referral service shall not engage in false, misleading, or deceptive advertising as such may be determined by the board. (*State Board of Dentistry; 828 IAC 1-1-14; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2190; filed Oct 16, 1985, 3:57 p.m.: 9 IR 521; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2866; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-15 Professional conduct, competency; physical or mental examination

Authority: IC 25-14-1-13

Affected: IC 25-1-9-9

Sec. 15. (a) Dental incompetence or improper conduct of a dentist includes, but is not limited to, any one (1) or any combination of the following acts:

- (1) Practicing while under the influence of alcohol or other drugs which impair skill or judgment.
- (2) Practicing with a physical disability, mental disability, disease, or disorder which impairs skill or judgment for the dental procedure being performed.
- (3) Practicing while knowingly afflicted with a serious disease which could be transmitted to the patient.
- (4) Operating an office or treatment facility which is lacking the necessary equipment and generally prevailing standards of sanitary or sterilization procedures.
- (5) Providing drugs or access to drugs to someone for use other than in the proper course of dental diagnosis or treatment.
- (6) Performing a treatment or procedure which violates acceptable standards of practice and results in failure or is detrimental to the patient.
- (7) Engaging in conduct constituting gross negligence or repeatedly failing to meet minimum standards of performance in diagnosis or treatment as measured against generally prevailing professional standards.
- (8) Practicing or offering to practice beyond the scope permitted by law.
- (9) Permitting or delegating the performance of a procedure to one not qualified by education, training, or licensure to undertake such procedure.
- (10) Failing to inspect:
 - (A) dental services during the course of their performance;
 - (B) completed and delivered dental prosthetic appliances; or
 - (C) completed dental restorations.
- (11) Failing to be present in the dental facility to properly supervise treatment of patients, provided that such supervision has not been delegated to another dentist.
- (12) Failing to keep adequate dental records.
- (13) Failing to submit a complete report to the board as required by section 22 of this rule.
- (14) Performing professional services which have not been duly authorized by the patient or the patient's legal guardian.
- (15) Providing treatment for a patient if the dentist is not prepared to handle any emergencies resulting from such treatment or failing to refer the patient to a

practitioner willing to perform such emergency treatment.

(16) Failing to maintain records of an examination, diagnosis, or treatment performed. Such information must be entered in the patient's records within ten (10) days after the examination, diagnosis, or treatment is performed.

(17) Signing an incomplete prescription form.

(18) Entering a contract with a third party in which the dentist may not inform the patient about the diagnosis and the treatments possible.

(b) Any dentist holding a general anesthesia-deep sedation or light parenteral conscious sedation permit:

- (1) who fails to comply with 828 IAC 3; or
- (2) who lacks the ability, skill, or knowledge to competently use general anesthesia, deep sedation, or light parenteral conscious sedation;

is subject to disciplinary action under IC 25-1-9-9.

(c) Any dentist who utilizes general anesthesia-deep sedation or light parenteral conscious sedation without a permit is subject to disciplinary action by the board under IC 25-1-9-9. The fact that the patient was not injured by the use of general anesthesia, deep sedation, or light parenteral conscious sedation is not a defense to this subsection.

(d) The board may order a licensed dentist to submit to a reasonable physical or mental examination if his or her physical or mental capacity to practice safely is at issue in a disciplinary proceeding. The choice of the practitioner is subject to approval by the board.

(e) Dentists shall exercise reasonable care and diligence in the conduct of research and shall utilize generally accepted scientific principles and current professional theory and practice. New or experimental procedures, techniques, and theories shall be utilized only with proper research safeguards, informed consent, and peer review of the procedures or techniques. (*State Board of Dentistry; 828 IAC 1-1-15; filed Apr 25, 1983, 8:52 a.m.: 6 IR 1085; errata, 7 IR 700; filed Oct 16, 1985, 3:57 p.m.: 9 IR 521; filed Aug 29, 1986, 2:30 p.m.: 10 IR 20; filed Dec 2, 1987, 9:34 a.m.: 11 IR 1286; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2236; filed Oct 12, 1993, 5:00 p.m.: 17 IR 400; filed Oct 14, 1993, 5:00 p.m.: 17 IR 402; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-16 Advertising; definitions

Authority: IC 25-13-1-5; IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-1; IC 25-14-4

Sec. 16. (a) As used in this rule, "advertise" means the act of attempting to direct any communication to the public by any means for the purpose of inducing the public to obtain the services of a particular practitioner or group of practitioners.

(b) As used in this rule, "dental service" means any diagnostic or treatment material or procedure which involves oral or related supporting structures and is restricted to the use or performance by licensed personnel.

(c) As used in this rule, "person" means an individual, partnership, corporation, or other legal entity.

(d) As used in this rule, "referral service" means a person, firm, partnership, association, corporation, agent, or employee that engages in, for profit, any business or service that in whole or in part includes cooperative advertising on behalf of certain Indiana dentists and the subsequent referral or

recommendation of interested consumers to certain dentists for any form of dental service or treatment.

(e) As used in this rule, "routine", or any other term conveying a similar concept, when used to describe any dental service, means any service which includes all of those procedures comprising the usual steps taken by a majority of Indiana dentists in the performance of that service. (*State Board of Dentistry; 828 IAC 1-1-16; filed Apr 14, 1983, 9:40 a.m.: 6 IR 1083; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2866; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-17 Advertising; forms of media used

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-1-9; IC 25-14-1; IC 25-14-4

Sec. 17. (a) Advertising of dental services is permitted by any media whatsoever, whether written, spoken, or pictorial, and to cover any geographic area. Specific vehicles include, but are not limited to, the following:

- (1) Signs.
- (2) Newspapers.
- (3) Magazines.
- (4) Circulars.
- (5) Newsletters.
- (6) Television.
- (7) Radio.
- (8) Public appearance.
- (9) Public directories.

However, section 16 of this rule, this section, and sections 18 and 19 of this rule shall apply to all forms of advertising, including cooperative advertising provided by a referral service, whose audience or potential audience includes citizens of Indiana.

(b) The responsibility for an advertisement of a dental service shall be borne by:

- (1) any and all practitioners on whose behalf the advertising was conducted;
- (2) any dentist responsible for placing the advertisement; and
- (3) if placed by a referral service, the referral service shall also bear responsibility.

(*State Board of Dentistry; 828 IAC 1-1-17; filed Apr 14, 1983, 9:40 a.m.: 6 IR 1083; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2866; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-18 Advertising; content

Authority: IC 25-13-1-5; IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-1; IC 25-14-4-4

Sec. 18. (a) Fees for any or all dental services may be advertised; however, violation of any of the provisions in this section may be construed as false, misleading, or deceptive.

(b) An advertisement of a fee for a dental service must include a specified period for which that fee shall be in effect, or that service must remain available at or below that fee for a minimum period of ninety (90) days following the final advertisement for that service, unless that service is found to be detrimental to the health of the public.

(c) A service advertised as routine or with a stated fee must include all components of providing that service without additional charges added thereto or without additional unstated restrictions.

(d) Discount offers for a dental service are permissible for advertising only when:

- (1) the nondiscounted or full price and the final discounted price are also disclosed in the advertisement; and
- (2) such discount is not contingent upon the procurement of additional patients, potential patients, or the purchase of additional services.

The dates a discount will be in force must be clearly identified.

(e) When an office charges a range of fees for a dental service, any advertisement of the fee for that service must disclose the range and include a listing of all of the factors which cause the fee to vary.

(f) A dentist may advertise as being a specialist in, or limiting practice to, a particular field of dentistry in:

- (1) dental public health;
- (2) endodontics;
- (3) oral and maxillofacial pathology;
- (4) oral and maxillofacial radiology;
- (5) oral and maxillofacial surgery;
- (6) orthodontics and dentofacial orthopedics;
- (7) pediatric dentistry;
- (8) periodontics; or
- (9) prosthodontics;

provided the dentist has graduated from an accredited advanced dental educational program.

(g) An accredited advanced dental educational program is one that meets the requirements and standards of:

- (1) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in General Dentistry published in 2001.
- (2) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in General Practice Residency published in 2001.
- (3) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Dental Public Health, published in 2001.
- (4) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Endodontics published in 2001.
- (5) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Oral and Maxillofacial Pathology published in 2001.
- (6) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Oral and Maxillofacial Radiology published in 2001.
- (7) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Oral and Maxillofacial Surgery published in 2001.
- (8) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Orthodontics and Dentofacial Orthopedics published in 2001.
- (9) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Pediatric Dentistry published in 2001.

(10) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Periodontics published in 2001.

(11) The Commission on Dental Accreditation Standards for Advanced Specialty Education Programs in Prosthodontics published in 2001.

These standards are hereby incorporated by reference and made applicable to this section. Copies of the standards are available for public inspection at the offices of the Health Professions Bureau, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204. Copies of the standards are available from the entity originally issuing the incorporated matter, the Commission on Dental Accreditation, American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611.

(h) As used in this section, "specialist" pertains to this section only for the purpose of defining advertising and must not be randomly applied to any other law or rule of IC 25-14.

(i) This section does not preclude or limit any dentist from offering and performing any treatment to any patient as prescribed by IC 25-14.

(j) All dentists who have claimed to be dental specialists, or hold themselves out to be engaged in a dental practice limited to any of the dental specialties in subsection (f), without regard to the matter incorporated by reference in subsection (f), and can document such claim to have acted as such prior to January 1, 1965, may continue to act as such under the protection of this rule.

(k) A dentist who is not considered a specialist by this section and who wishes to announce the services available in his or her practice may announce the availability of those services so long as he or she avoids any communications that express or imply specialization. The dentist shall also state that the services are being provided by a general dentist. No dentist shall announce available services in any way that would be false or misleading in any material respect.

(l) The factors of availability such as hours of practice and office locations may be advertised provided that any such advertisement must include the names of all practitioners providing dental services at each location.

(m) An advertisement indicating that superior services, better materials, or more skillful care are available in a particular office or by a group of practitioners may be deceptive.

(n) Guarantees or warranties, whether expressed or implied, regarding the successful outcome of treatment, length of service, or durability of materials may be deceptive if advertised. Any testimonials or endorsements such as character witness, benefits of treatment, or expressions of appreciation may be misleading when advertised.

(o) A referral service shall only advertise a dentist as a specialist if such dentist has complied with subsections (f) through (k) and has presented such referral service with verification of compliance. An advertisement for a dentist not complying with subsections (f) through (k) may only claim the dentist may provide routine dental services and other services and that the dentist is not to be considered a specialist.

(p) Referral services shall provide disclaimers in compliance with IC 25-14-4-4. A disclaimer shall be written for advertisements placed in written media, audio for radio advertisements, and both audio and visual for television advertisements.

(q) Advertising in any media by a referral service must not lead consumers to believe that they are receiving an impartial referral based on all dentists in the area instead of only those dentists participating in the referral service. (*State Board of Dentistry; 828 IAC 1-1-18; filed Apr 14, 1983, 9:40 a.m.: 6 IR 1084; filed Jan 16, 1986, 3:17 p.m.: 9 IR 1364; filed Aug 29, 1986, 2:30 p.m.: 10 IR 21; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2867; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2241*)

828 IAC 1-1-19 Advertising; records

Authority: IC 25-13-1-5; IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-1; IC 25-14-4

Sec. 19. It shall be the responsibility of the dentist or group of practitioners on whose behalf an advertisement appears to keep records of any and all advertisements placed. Copies of written advertisements, scripts, or transcripts of radio and television announcements, and appropriate copies of any other forms of advertisements must be retained by the practitioner for a period of six (6) months following the last appearance of an advertisement. It shall further be the responsibility of a practitioner to submit to the board an appropriate copy of each advertisement used in the past six (6) months upon written request of the board. (*State Board of Dentistry; 828 IAC 1-1-19; filed Apr 14, 1983, 9:40 a.m.: 6 IR 1084; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2868; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-19.1 Referral services; dental fees; services provided

Authority: IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-4

Sec. 19.1. (a) A dentist participating with a referral service shall not charge patients referred by such referral service any fee that exceeds the usual, customary, and reasonable fee charged patients of the participating dentist, but not referred by such referral service.

(b) A dentist participating with a referral service shall not reduce the amount of service or lower the quality of the service provided to patients referred by a referral service that the dentist would provide for the dentist's patients who were not referred by such referral service. (*State Board of Dentistry; 828 IAC 1-1-19.1; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2868; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-19.2 Referral services; solicitation

Authority: IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-4

Sec. 19.2. (a) Any communication between a prospective patient and a referral service must be initiated by such prospective patient.

(b) A referral service shall not charge any individual contacting the referral service a fee for obtaining information from the referral service. (*State Board of Dentistry; 828 IAC 1-1-19.2; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2868; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-19.3 Referral services; complaints

Authority: IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-4

Sec. 19.3. A referral service that receives a complaint with regard to a dentist participating in its service must notify the complaining party that such party has the right to notify the consumer protection division of the office of the attorney general and must be provided with the address and telephone number of the office of the attorney general. (*State Board of Dentistry; 828 IAC 1-1-19.3; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2868; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-19.4 Referral service; patient referral

Authority: IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-4

Sec. 19.4. (a) A referral service may not refer to participating dentists who are specialists or participating dentists that purport to provide special services unless the patient specifically requests a specialist or the special service. The fact that the patient purports to have a condition or necessity notwithstanding, unless a specific specialty or service is requested, without prompting by the referral service, the patient will be referred to a general dentist.

(b) Any fee paid to a referral service from a dentist shall not be dependent upon the number of referrals received by that dentist from such referral service.

(c) A referral service shall not designate an exclusive geographic area to a specific dentist from which all patients shall be referred.

(d) If requested, and where possible, the referral service will provide multiple names of participating dentists in the patient's geographic area as determined by the patient's need.

(e) A referral service shall not limit the number of participating dentists who can enroll in the referral service in a given geographic region. (*State Board of Dentistry; 828 IAC 1-1-19.4; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2869; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-19.5 Referral services; compensation

Authority: IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-4

Sec. 19.5. A referral service shall charge dentists participating in the same program within the same advertising market the same fee for such service provided. Varying charges may be charged upon the introduction of new advertising rates in an advertising market provided all dentists participating in the same program are charged the same rate within six (6) months of the initial change in rates. (*State Board of Dentistry; 828 IAC 1-1-19.5; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2869; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-19.6 Referral services; verification of licensure

Authority: IC 25-14-1-13; IC 25-14-4-9

Affected: IC 25-1-9; IC 25-14-4

Sec. 19.6. (a) A referral service shall ascertain the credentials of all participating dentists with regard to the following:

- (1) Licensure status.

- (2) Compliance with the requirements of section 18(f) through 18(j) of this rule if the participating dentist claims to be a specialist.

(b) The referral service shall disclose to all participating dentists in all contracts, whether oral or written, that, in addition to the referral service, the participating dentist may also be held responsible for the violation if an advertisement is found to be in violation of IC 25-14-4 and this rule. (*State Board of Dentistry; 828 IAC 1-1-19.6; filed Aug 9, 1994, 2:45 p.m.: 17 IR 2869; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-20 Costs of disciplinary proceedings

Authority: IC 25-14-1-12; IC 25-14-1-13

Affected: IC 25-14-1-19.1

Sec. 20. Persons who have been subjected to disciplinary sanctions by the board of dental examiners shall be responsible for the payment of costs of such disciplinary proceedings including, but not limited to, costs for:

- (1) court reporters;
- (2) transcriptions;
- (3) certifications; notarizations;
- (4) photoduplication;
- (5) witness attendance and mileage fees;
- (6) postage for mailings required by law;
- (7) expert witnesses;
- (8) depositions.

(*State Board of Dentistry; 828 IAC 1-1-20; filed Oct 16, 1985, 3:57 pm: 9 IR 522; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-21 Remedial education (*Repealed*)

Sec. 21. (*Repealed by State Board of Dentistry; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545*)

828 IAC 1-1-22 Mandatory reporting

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-1-9; IC 25-14-1

Sec. 22. (a) A report must be submitted to the board when:

- (1) a mortality occurs in connection with dental procedures performed in a dentist's office;
- (2) a procedure performed in the dentist's office results in permanent injury; or
- (3) a procedure performed in a dentist's office results in hospitalization other than for the continuing treatment of infection that was the cause of the procedure or as a direct result of the patient's oral-facial pathology.

(b) The report must be submitted to the board within seven (7) days after the incident occurs or the injury manifests itself.

(c) The information provided to the board must include the following:

- (1) Name, age, and address of the patient.
- (2) Name of the dentist and other personnel present during the incident.

(3) Address of the facility or office where the incident took place.

(4) Technique, if any, of general anesthesia or sedation being utilized at the time of the incident.

(5) Dosages, if any, of drugs administered to the patient.

(6) A narrative description of the incident, including approximate times and evolution of symptoms.

(d) Violation of this rule subjects the practitioner to disciplinary action under IC 25-1-9. (*State Board of Dentistry; 828 IAC 1-1-22; filed Sep 21, 1992, 9:00 a.m.: 16 IR 718; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-1-23 Illegal, unlawful, incompetent, or fraudulent conduct; reporting procedures

Authority: IC 25-14-1-13

Affected: IC 25-1-9; IC 25-14-1

Sec. 23. (a) A dentist who has a reasonable belief based upon personal knowledge that another dentist has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of dentistry shall promptly report such conduct to a peer review committee, as defined in IC 34-4-12.6-1(c) [*IC 34-4 was repealed by P.L. 1-1998, SECTION 221, effective July 1, 1998.*], having jurisdiction over the offending dentist and the matter. This subsection does not prohibit a dentist from promptly reporting the conduct directly to the board or to the consumer protection division of the office of the attorney general of Indiana.

(b) A dentist who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of dentistry shall promptly report such conduct to the board or to the consumer protection division of the office of the attorney general of Indiana.

(c) A dentist who voluntarily submits to, or is otherwise undergoing, a course of treatment for addiction, severe dependency upon alcohol, other drugs, or controlled substances, or psychiatric impairment, where such treatment is sponsored or supervised by an impaired practitioner's committee of a state, regional, or local organization of professional health care providers, or where such treatment is sponsored or supervised by an impaired practitioner's committee of a hospital, shall be exempt from reporting to a peer review committee as set forth in subsection (a) or to the board or to the consumer protection division of the office of the attorney general of Indiana for so long as:

(1) the dentist is complying with the course of treatment;

(2) the dentist is making satisfactory progress; and

(3) the dentist has not engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of dentistry beyond the practitioner's addiction, severe dependency upon alcohol, other drugs, or controlled substances, or psychiatric impairment.

(d) If the dentist fails to comply with, or fails to make satisfactory progress in, the course of treatment, the chief administrative officer, the designee of the chief administrative officer, or any member of the impaired practitioner's committee shall promptly report such facts and circumstances to the board or to the consumer protection division of the office of the attorney general of Indiana.

(e) This section shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to prohibit, restrict, limit, or otherwise preclude the board from taking such action as it deems appropriate or as may otherwise be provided by law. (*State Board of Dentistry; 828 IAC 1-1-23; filed Oct 5, 1993, 5:00 p.m.: 17 IR 199; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2242*)

828 IAC 1-1-24 Discontinuation of practice

Authority: IC 25-14-1-13

Affected: IC 16-39; IC 25-14

Sec. 24. (a) Upon retirement, discontinuation of practice, or leaving or moving from a community, a dentist shall:

(1) notify all of the dentist's active patients in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that the dentist intends to discontinue the dentist's practice of dentistry in the community; and

(2) encourage the dentist's patients to seek the services of another dentist.

(b) This section does not apply to dentists engaged solely in internship, residency, preceptorship, fellowship, teaching, or other postgraduate dental education or training programs.

(c) The dentist shall make reasonable arrangements with the dentist's active patients for the transfer of the dentist's records, or copies thereof, to the succeeding practitioner, or, at the written request of the patient, to the patient, in compliance with IC 16-39.

(d) As used in this section, "active patient" applies and refers to a person whom the dentist has examined, treated, cared for, or otherwise consulted with during the two (2) year period prior to retirement, discontinuation of practice, or moving from or leaving the community.

(e) Nothing in this section supersedes the requirements of IC 16-39. (*State Board of Dentistry; 828 IAC 1-1-24; filed May 21, 2001, 4:11 p.m.: 24 IR 3066*)

Rule 2. Dental Hygienists; Licensure by Examination

828 IAC 1-2-1 Qualifications of applicants; accredited and approved dental hygiene schools

Authority: IC 25-13-1-5

Affected: IC 25-13-1-6

Sec. 1. All applicants for licensure to practice dental hygiene must:

(1) have graduated from a school of dental hygiene that is accredited by the Commission on Dental Accreditation of the American Dental Association; and

(2) submit certification of having completed within the prior year an American Red Cross or American Heart Association cardiopulmonary resuscitation course or another course approved by the board.

(*State Board of Dentistry; PT 2, Rule 1; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 51; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2190; filed Oct*

12, 1993, 5:00 p.m.: 17 IR 401; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2243; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2541)

828 IAC 1-2-2 Application forms; time for filing required documents

Authority: IC 25-13-1-5

Affected: IC 25-13-1-4

Sec. 2. (a) The applicant for licensure must complete the application on forms prescribed and provided by the board. The applicant shall verify all statements contained in the application. The verified application, fees, and other documents that the board may require must be submitted to the board.

(b) The following proof that the applicant is a graduate of a school of dental hygiene that is recognized by the board must be submitted to the board as follows:

(1) An official transcript showing the date the degree was conferred.

(2) An official diploma or a certificate of completion signed by the dean and the registrar of the applicant's school.

(c) Additional documents to be submitted by the applicant for a license include the following:

(1) Where the name on any document differs from the applicant's name, one (1) of the following:

(A) A notarized or certified copy of a marriage certificate.

(B) Legal proof of a name change.

(2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks before filing of the application.

(3) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been convicted. This notarized statement must include the following:

(A) The offense of which the applicant was convicted.

(B) The court in which the applicant was convicted.

(C) The cause number under which the applicant was convicted.

(D) The penalty imposed by the court.

(4) An applicant who is now, or has been, licensed to practice any health profession in

another state or Canadian province must submit verification of license status. This information must be sent by the state or province that issued the license directly to the Indiana board.

(5) An applicant who is now, or has been, licensed to practice any health profession in another state shall submit a self-query form completed by the following:

(A) The National Practitioner Data Bank (NPDB).

(B) The Healthcare Integrity and Protection Data Bank (HIPDB) data bank.

(d) All applicants must submit the applicant's United States Social Security number in order to be eligible for licensure. (*State Board of Dentistry; PT 2, Rule 2; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Oct 16, 1985, 3:57 p.m.: 9 IR 522; filed Oct 12, 1993, 5:00 p.m.: 17 IR 401; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2243; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2542*)

828 IAC 1-2-3 Examinations required for licensure

Authority: IC 25-13-1-5

Affected: IC 25-13-1-4; IC 25-13-1-7

Sec. 3. (a) In order to obtain an Indiana license to practice dental hygiene, each candidate must pass an examination that includes:

(1) All sections of the national dental hygiene board examination.

(2) A clinical examination.

(3) A written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) To be eligible for licensure by examination, an applicant must meet any one (1) of the following clinical examination requirements:

(1) Have passed all parts of one (1) of the following examinations within the five (5) year period immediately before the date of the board's receipt of the applicant's application:

(A) The Central Regional Dental Testing Service (CRDTS) examination.

(B) The North East Regional Board (NERB) examination.

(C) The Southern Regional Testing Agency (SRTA) examination.

(D) The Western Regional Examining Board (WREB) examination.

(2) Have taken an examination administered by the board and received a passing score as established by the board.

(State Board of Dentistry; PT 2, Rule 3; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2279; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2542)

828 IAC 1-2-4 Supervision of examinations; candidate identification numbers (Repealed)

Sec. 4. (Repealed by State Board of Dentistry; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2246)

828 IAC 1-2-5 Written examination; scope (Repealed)

Sec. 5. (Repealed by State Board of Dentistry; filed Nov 7, 1986, 9:00 am: 10 IR 432)

828 IAC 1-2-6 National board examination; dental and dental hygiene law examination

Authority: IC 25-13-1-5

Affected: IC 25-13-1-4; IC 25-13-1-7

Sec. 6. (a) A passing score on a national board dental hygiene examination, as approved by the board, must be attained by the candidate before the candidate will be permitted to take the clinical portion of the examination and the written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) Passage of the Indiana dental and dental hygiene law examination with a score of at least seventy-five (75) is mandatory before the candidate may be licensed. Candidates failing the law examination may retake the law examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the law examination was last taken. (State Board of Dentistry; PT 2, Rule 6; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Apr 12, 1984, 8:34 a.m.: 7 IR 1521; filed Nov 7, 1986, 9:00 a.m.: 10 IR 431; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1014; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244; filed Feb 26, 2004, 3:45 p.m.)

828 IAC 1-2-7 Clinical examination; two sections; required score (Repealed)

Sec. 7. (Repealed by State Board of Dentistry; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545)

828 IAC 1-2-8 Supplies for examinations; duty to provide (Repealed)

Sec. 8. (Repealed by State Board of Dentistry; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545)

828 IAC 1-2-9 Conduct during examinations (Repealed)

Sec. 9. (Repealed by State Board of Dentistry; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545)

828 IAC 1-2-10 Dismissal of candidate for use of unfair assistance

Authority: IC 25-13-1-5

Affected: IC 25-13-1-7

Sec. 10. The board reserves the right to dismiss any applicant who may be detected in using, or attempting to use, any unfair assistance for herself or himself or another candidate. (State Board of Dentistry; PT 2, Rule 10; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 53; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244)

828 IAC 1-2-11 Other considerations in grading examinations (Repealed)

Sec. 11. (Repealed by State Board of Dentistry; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2246)

828 IAC 1-2-12 Failure; reexamination (Repealed)

Sec. 12. (Repealed by State Board of Dentistry; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545)

828 IAC 1-2-12.1 Invalid license; reapplication (Repealed)

Sec. 12.1. (Repealed by State Board of Dentistry; filed Oct 29, 1991, 3:00 p.m.: 15 IR 242)

828 IAC 1-2-13 Competency; physical or mental examination

Authority: IC 25-13-1-5; IC 25-14-1-3

Affected: IC 25-14-1-19.1

Sec. 13. (a) The board may determine "dental hygiene competency" on a case by case basis using comparable or equal standards as used in determining qualifications for initial licensure.

(b) "Dental hygiene incompetency or improper conduct of dental hygienists" includes but is not limited to any one (1) or any combination of the following acts:

(1) Practicing while under the influence of alcohol or other drugs which impair skill or judgment.

(2) Practicing with a physical disability, mental disability, disease, or disorder which impairs skill or judgment.

(3) Practicing while knowingly afflicted with a serious disease which could be transmitted to the patient.

(4) Repeatedly performing a treatment or procedure which is beyond the skill or knowledge of the practitioner with the results being detrimental to the patient.

(5) Repeatedly performing a treatment or procedure which violates acceptable standards of practice and results in failure or is detrimental to the patient.

(6)(A) Engaging in conduct constituting gross negligence; or (B) repeatedly failing to meet standards of performance in treatment as measured against generally prevailing peer performance.

(7) Practicing or offering to practice beyond the scope permitted by law.

(c) The Indiana state board of dental examiners may order a dental hygienist to submit to a reasonable physical or mental examination if his or her physical or mental capacity to practice safely is at issue in a disciplinary proceeding. The choice of the practitioner to administer the examination is subject to approval by the board.

(d) As a condition of reinstatement of a suspended or revoked license the board may, at its discretion, require the applicant for reinstatement to submit to all or part of the examination for initial licensure or to a similar examination. (State Board of Dentistry; 828 IAC 1-2-13; filed Apr 25, 1983, 8:52 am; 6 IR 1086; errata, 7 IR 700; readopted filed Apr 11, 2001, 3:21 p.m.; 24 IR 2896)

828 IAC 1-2-14 Remedial education (Repealed)

Sec. 14. (Repealed by State Board of Dentistry; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545)

Rule 3. Dentists and Dental Hygienists; Licensure by Endorsement

828 IAC 1-3-1 Licensure by endorsement; credentials; examination and interview (Repealed)

Sec. 1. (Repealed by State Board of Dentistry; filed Sep 27, 2002, 2:38 p.m.: 26 IR 375)

828 IAC 1-3-1.1 Dental licensure by endorsement; credentials

Authority: IC 25-14-1-13

Affected: IC 25-14-1-16

Sec. 1.1. (a) Persons seeking licensure to practice dentistry by endorsement shall do the following:

- (1) File an application on a form supplied by the board.
- (2) Submit the fees required by 828 IAC 0.5-2-3.

(b) The applicant for a license shall provide the following:

- (1) Where the name on any document differs from the applicant's name, one (1) of the following:

- (A) A notarized or certified copy of a marriage certificate.
 - (B) Legal proof of a name change.
- (2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks before filing of the application.
- (3) An original transcript of the applicant's dental education, including the following:
- (A) The degree or degrees conferred.
 - (B) The date each degree was conferred.
- (4) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been convicted. This notarized statement must include the following:
- (A) The offense of which the applicant was convicted.
 - (B) The court in which the applicant was convicted.
 - (C) The cause number under which the applicant was convicted.
 - (D) The penalty imposed by the court.
- (5) An applicant who is now, or has been, licensed to practice any health profession in another state or Canadian province must submit verification of license status. This information must be sent by the state or province that issued the license directly to the Indiana board.
- (6) The applicant shall submit a self-query form completed by the following:
- (A) The National Practitioner Data Bank (NPDB).
 - (B) The Healthcare Integrity and Protection Data Bank (HIPDB) data bank.
- (7) The applicant shall submit proof of the following:
- (A) Completion of at least twenty (20) hours of continuing dental education taken in the previous two (2) years. No more than two (2) hours of training in basic life support shall count toward this requirement.
 - (B) That the applicant successfully completed the:

- (i) National Board Dental Examination provided by the Joint Commission on Dental Examinations; or
- (ii) National Dental Examining Board of Canada Written Examination provided by the National Dental Examining Board of Canada.

- (C) That the applicant satisfactorily completed a national, regional, state, or provincial clinical licensing examination in any other state or Canadian province having and maintaining a standard of examination for licensure and laws regulating the practice of dentistry within that state or province that is substantially equivalent to the examination and licensing requirements of Indiana.
- (D) That the applicant has been engaged in the active practice of dentistry for not less than two (2) years out of the three (3) years immediately preceding the submission of the application.

(8) The applicant shall submit the following:

- (A) Written statements from at least three (3) practicing dentists verifying the applicant's active, moral, and ethical practice of dentistry. The statements must:
 - (i) be originals; and
 - (ii) have been written not more than eight (8) weeks before the submission of the application.

(B) Proof that the applicant is currently certified in one (1) of the following:

- (i) Basic life support.
- (ii) Advanced cardiac life support.

(9) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(c) All applicants must submit the applicant's United States Social Security number in order to be eligible for licensure. (*State Board of Dentistry*; 828 IAC 1-3-1.1; filed Sep 27, 2002, 2:38

p.m.: 26 IR 373; errata filed Sep 27, 2002, 2:59 p.m.: 26 IR 383; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2543)

828 IAC 1-3-1.5 Licensure to practice dental hygiene by endorsement; credentials

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-13-1-7; IC 25-13-1-17

Sec. 1.5. (a) Persons seeking licensure to practice dental hygiene by endorsement shall do the following:

- (1) File an application on a form supplied by the board.
- (2) Submit the fees required by 828 IAC 0.5-2-4.
- (b) The applicant for a license shall provide the following:

(1) Where the name on any document differs from the applicant's name, one (1) of the following:

- (A) A notarized or certified copy of a marriage certificate.
- (B) Legal proof of a name change.

(2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks before filing of the application.

(3) An original transcript of the applicant's dental hygiene education, including the following:

- (A) The degree or degrees conferred.
- (B) The date each degree was conferred.

(4) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been convicted. This notarized statement must include the following:

- (A) The offense of which the applicant was convicted.
- (B) The court in which the applicant was convicted.
- (C) The cause number under which the applicant was convicted.
- (D) The penalty imposed by the court.

(5) An applicant who is now, or has been, licensed to practice any health profession in another state must submit verification of license status. This information must be sent by the state that issued the license directly to the Indiana board.

(6) The applicant shall submit the following:

(A) A self-query form completed by the following:

(i) The National Practitioner Data Bank (NPDB).

(ii) The Healthcare Integrity and Protection Data Bank (HIPDB) data bank.

(B) Proof of completion of at least fourteen (14) hours of continuing dental hygiene education taken within the previous two (2) years. No more than two (2) hours of training in basic life support shall count toward this requirement.

(7) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(8) The applicant shall submit the following proof that the applicant:

(A) Satisfactorily completed the following:

(i) The National Board Dental Hygiene Examination provided by the Joint Commission on Dental Examinations.

(ii) A national, regional, or state clinical licensing examination in any other state having and maintaining a standard of examination for licensure and laws regulating the practice of dental hygiene within that state or province that is substantially equivalent to the examination and licensing requirements of Indiana.

(B) Has been engaged in the active practice of dental hygiene for not less than two (2) years out of the five (5) years immediately preceding the submission of the application.

(9) The applicant shall submit the following:

(A) Written statements from at least three (3) practicing dentists verifying the applicant's active, moral, and ethical practice of

dental hygiene. The statements must:

(i) be originals; and
(ii) have been written not more than eight (8) weeks before the submission of the application.

(B) Proof that the applicant is currently certified in basic life support.

(c) An applicant who has previously failed an examination for licensure administered by the board is not eligible to apply for a license by endorsement until the applicant:

(1) has passed all portions of the examination in which he or she failed; or
(2) provides the board with proof that additional training has been received in the subjects of the failure.

(d) All applicants must submit the applicant's United States Social Security number in order to be eligible for licensure. (*State Board of Dentistry; 828 IAC 1-3-1.5; filed Sep 27, 2002, 2:38 p.m.: 26 IR 374; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2544*)

828 IAC 1-3-2 "Practice of dentistry" defined

Authority: IC 25-14-1-13

Affected: IC 25-14-1-16

Sec. 2. (a) Under IC 25-14-1-16(b)(2), an applicant for licensure by endorsement must have practiced dentistry for at least two (2) out of the three (3) years preceding the date of application.

(b) "Practice of dentistry" means that the applicant has actively engaged in clinical patient contact for at least an average of twenty (20) hours per week for two (2) years. A maximum of one (1) year of the two (2) year requirement may have been in post-doctoral training in a program approved by the board. (*State Board of Dentistry; 828 IAC 1-3-2; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1728; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Sep 27, 2002, 2:38 p.m.: 26 IR 375; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545*)

828 IAC 1-3-3 "Satisfactory practice of dental hygiene" defined

Authority: IC 25-13-1-5

Affected: IC 25-13-1-17

Sec. 3. (a) An applicant for a dental hygiene license under IC 25-13-1-17(a) must have engaged in the satisfactory practice of dental hygiene for at least two (2) out of the preceding five (5) years.

(b) As used in this section, "satisfactory practice of dental hygiene" means that the applicant has actively engaged in practicing dental hygiene for at least an average of twenty (20) hours per week for two (2) years. A maximum of one (1) year of the two (2) year requirement may have been in post

associate degree training in dental hygiene in a program approved by the board. (*State Board of Dentistry; 828 IAC 1-3-3; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1728; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1094; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Sep 27, 2002, 2:38 p.m.: 26 IR 375*)

828 IAC 1-3-4 Dental licensure by endorsement; failure to renew expired license

Authority: IC 25-14-1-13

Affected: IC 25-14-1-10; IC 25-14-1-16

Sec. 4. The holder of a license that has expired under IC 25-14-1-10 for failure to renew may not apply for licensure by endorsement under IC 25-14-1-16(b) and this chapter if the holder of the license has practiced dentistry in Indiana during the period of time while the license was expired. (*State Board of Dentistry; 828 IAC 1-3-4; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1094; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2246*)

828 IAC 1-3-5 Dental hygiene licensure by endorsement; failure to renew expired license

Authority: IC 25-13-1-5

Affected: IC 25-13-1-8; IC 25-13-1-17

Sec. 5. The holder of a license that has expired under IC 25-13-1-8 for failure to renew may not apply for licensure by endorsement under IC 25-13-1-17(a) and this chapter if the holder of the license has practiced dental hygiene in Indiana during the period of time while the license was expired. (*State Board of Dentistry; 828 IAC 1-3-5; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1094; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2246*)

Rule 4. Practice of Dentistry

828 IAC 1-4-1 Definitions

Authority: IC 25-14-1-13

Affected: IC 25-14-1

Sec. 1. Definitions. The following terms as used in this rule [828 IAC 1-4] only shall mean:

- (1) Dentists. Any person licensed to practice dentistry in any of the various states of the United States.
- (2) Unlicensed Person. Any person not holding a valid license to practice dentistry.
- (3) Dental Diagnostic Materials. Any device, models, impressions, or dental radiographs of a dental patient which are prepared and used by a dentist in the diagnosis or treatment of any lesion or disease of the human oral cavity, teeth, gums, maxillary or mandibular structures. Claim forms are not dental diagnostic materials.
- (4) Dental Treatment Plan. Any course of dental treatment prescribed by a dentist.
- (5) Dental Benefits. Any funds, money, or reimbursement, paid either to a dentist or to a dentist's patient by a third party, that compensates in full or in part for the cost of dental treatment.

(*State Board of Dentistry; 828 IAC 1-4-1; filed Apr 8, 1982, 11:00 am: 5 IR 992; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-4-2 Practice of dentistry; license

Authority: IC 25-14-1-13

Affected: IC 25-14-1-23

Sec. 2. Practice of Dentistry- License Required. Any person using dental diagnostic materials for the purpose of recommending changes in the treatment plan upon which benefits are based is practicing dentistry and must be a dentist. (*State Board of Dentistry; 828 IAC 1-4-2; filed Apr 8, 1982, 11:00 am: 5 IR 992; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-4-3 Unauthorized practice of dentistry

Authority: IC 25-14-1-13

Affected: IC 25-14-1-19.1

Sec. 3. Assisting the Unauthorized Practice of Dentistry Prohibited. Indiana dentists shall not knowingly submit dental diagnostic materials to any party involved in the Unauthorized Practice of Dentistry. (*State Board of Dentistry; 828 IAC 1-4-3; filed Apr 8, 1982, 11:00 am: 5 IR 993; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 1-4-4 Board members; duties

Authority: IC 25-14-1-13

Affected: IC 25-14-1-12

Sec. 4. (a) Board members who are not trained and licensed as dentists may not assume duties which require the expertise of a dentist.

(b) The president of the board or his representative shall assign duties to members of the board. If a board member objects to one of these assignments, a majority vote of the board members present shall be taken to resolve the issue. (*State Board of Dentistry; 828 IAC 1-4-4; filed Apr 25, 1983, 8:52 am: 6 IR 1084; errata, 7 IR 700; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

Rule 5. Continuing Education for Renewal of License

828 IAC 1-5-1 Application for approval of study clubs

Authority: IC 25-13-2-10; IC 25-14-3-12

Affected: IC 25-13-2; IC 25-14-3

Sec. 1. (a) Study clubs must submit an application and a fee for approval of the study club as a sponsor of continuing education credit for dentists and/or dental hygienists. Programs presented:

- (1) prior to the receipt of approval; or
- (2) after the withdrawal or termination of approval of the study club;

by the board shall not count toward continuing education requirements.

(b) The application for approval shall include the following:

- (1) The name of the study club.
- (2) The address of the study club.
- (3) A statement that the study club is organized for the purpose of scientific study.
- (4) A statement that the study club operates under the direction of elected officers.

- (5) The names and addresses of each officer.
- (6) A copy of the study club's bylaws.
- (7) The names of at least five (5) members of the study club.
- (8) A statement that the study club will conduct regular meetings.
- (9) A statement that the study club will maintain written attendance records of all meetings which shall be submitted to the board upon request.
- (10) A description of the types of programs or activities the study club intends to present.
- (c) The application for approval must be signed by an officer of the study club.

(State Board of Dentistry; 828 IAC 1-5-1; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1015; filed Mar 26, 1993, 5:00 p.m.: 16 IR 1952; filed Sep 1, 2000, 2:20 p.m.: 24 IR 22; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Oct 8, 2002, 12:43 p.m.: 26 IR 371)

828 IAC 1-5-1.5 Study club sponsor approval; expiration

Authority: IC 25-13-2-10; IC 25-14-3-12

Affected: IC 25-13-2-2; IC 25-14-3-2

Sec. 1.5. (a) A study club continuing education sponsor approval issued by the board shall be valid for the remainder of the approval period in effect on the date the approval was issued.

(b) The approval issued by the board expires on March 2 of even-numbered years.

(c) The approval is not renewable. A new application and fee for study club continuing education sponsor approval must be filed for each license period.

(d) The approval of a study club sponsor issued by the board:

- (1) prior to the effective date of this rule; and
- (2) that is current and good standing;

shall remain valid until March 2, 2004. (State Board of Dentistry; 828 IAC 1-5-1.5; filed Oct 8, 2002, 12:43 p.m.: 26 IR 371)

828 IAC 1-5-2 Application for approval of organizations or individuals

Authority: IC 25-13-2-10; IC 25-14-3-12

Affected: IC 25-13-2-2; IC 25-14-3-2

Sec. 2. (a) This section applies to organizations or individuals referred to in IC 25-13-2-2(18) and IC 25-14-3-2(18).

(b) Individuals or organizations applying for approval must submit an application and a fee for approval as a sponsor of continuing education credit for dentists and/or dental hygienists. Programs presented:

- (1) prior to the receipt of approval; or
- (2) after the withdrawal or termination of approval of the individual or organization; by the board shall not count toward continuing education requirements.
- (c) The application for approval shall include the

following:

- (1) The name of the sponsoring individual or organization.
- (2) The address and telephone number of the individual or organization.
- (3) The following for organizations:

(A) A copy of all documents relating to the formation and continued existence of the organization.

(B) A description of the specific purposes for which the organization was formed.

(C) For each individual in the organization with direct responsibility for teaching and conducting an educational program of the organization, a vita or resume listing all educational and relevant work experience.

(4) For individuals, a vita or resume listing all educational and relevant work experience.

(5) A list of each educational program presented or sponsored by the individual or organization for five (5) years prior to the date of the request for approval.

(6) The following for each program listed under subdivision (5) given in the prior two (2) years:

(A) The date and location of the program.

(B) A brief summary of the content of the program.

(C) The name and the academic and professional background of the lecturer.

(D) The number of clock hours of continuing education credit granted by a state licensing or similar regulatory authority for the program.

(7) A description of the course evaluation technique utilized for all educational programs.

(8) A sample of the certificate awarded for the completion of all educational programs, if available.

(9) A list of all anticipated programs to be presented or sponsored during the requested approval period, if available.

(10) A description of the types of programs or activities the individual or organization intends to present.

(11) A description of the method to be used for monitoring attendance.

(d) The individual or organization is responsible for monitoring attendance in such a way that verification of attendance throughout the program can be reliably assured.

(State Board of Dentistry; 828 IAC 1-5-2; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1015; filed Mar 26, 1993, 5:00 p.m.: 16 IR 1953; filed Sep 1, 2000, 2:20 p.m.: 24 IR 22; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Oct 8, 2002, 12:43 p.m.: 26 IR 372)

828 IAC 1-5-2.5 Individual or organization sponsor approval; expiration

Authority: IC 25-13-2-10; IC 25-14-3-12

Affected: IC 25-13-2-2; IC 25-14-3-2

Sec. 2.5. (a) Approval of an individual or organization as a sponsor of continuing education issued by the board shall be valid for the remainder of the approval period in effect on the date the approval was issued.

(b) The approval issued by the board expires on March 2 of even-numbered years.

(c) The approval is not renewable. A new application and fee for an individual or organization continuing education sponsor approval must be filed for each license period.

(d) The approval of a sponsor issued by the board:

(1) prior to the effective date of this rule; and
(2) that is current and in good standing;
shall remain valid until March 2, 2004. *(State Board of Dentistry; 828 IAC 1-5-2.5; filed Oct 8, 2002, 12:43 p.m.: 26 IR 372)*

828 IAC 1-5-3 Verification of attendance

Authority: IC 25-13-2-10; IC 25-14-3-12

Affected: IC 25-13-2-2; IC 25-14-3-2

Sec. 3. Organizations, individuals, or study clubs approved under IC 25-13-2-2 or IC 25-14-3-2, shall provide each attendee with verification of attendance which shall include the following:

- (1) A record of the number of hours spent in the continuing education course.
- (2) The name of the course or a description of the subject matter presented.
- (3) The name of the sponsoring approved organization, individual, or study club.
- (4) The date and location of the program.

(State Board of Dentistry; 828 IAC 1-5-3; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1016; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

828 IAC 1-5-4 Civil penalties for a dental hygienist

Authority: IC 25-13-2-10

Affected: IC 25-13-2-11; IC 25-13-2-12

Sec. 4. If a dental hygienist is not in compliance with IC 25-13-2 and is assessed a civil penalty under IC 25-13-2-11(b)(1) or IC 25-13-2-12(b)(1), the amount of the civil penalty shall be based on the number of continuing education credit hours needed per license period to be in compliance as follows:

Number of hours needed to be in compliance:	Civil penalty:
1-2 hours	\$50
3-5 hours	\$100
6-10 hours	\$250
11- 14 hours	\$375

(State Board of Dentistry; 828 IAC 1-5-4; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1016; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1306)

828 IAC 1-5-5 Civil penalties for a dentist

Authority: IC 25-14-3-12

Affected: IC 25-14-3-13; IC 25-14-3-14

Sec. 5. If a dentist is not in compliance with IC 25-14-3 and is assessed a civil penalty under IC 25-14-3-13(b)(1) or IC 25-14-3-14(b)(1), the amount of the civil penalty shall be based on the number of continuing education credit hours needed per license period to be in compliance as follows:

Number of hours needed to be in compliance:	Civil penalty
1-2 hours	\$100
3-5 hours	\$250
6-10 hours	\$500
11-15 hours	\$750
16-20 hours	\$1,000

(State Board of Dentistry; 828 IAC 1-5-5; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1016; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1307)

828 IAC 1-5-6 Continuing education course requirement

Authority: IC 25-13-1-5; IC 25-13-2-10; IC 25-14-1-13; IC 25-14-3-12

Affected: IC 25-13-2-11; IC 25-13-2-12; IC 25-14-3-13; IC 25-14-3-14

Sec. 6. (a) Effective for the license period ending March 1, 2006, for dentists and dental hygienists, and every license period thereafter, continuing education credit must include two (2) hours which shall cover each of the following subjects:

- (1) Ethics.
- (2) Professional responsibility.
- (3) Indiana statutes and Indiana administrative rules governing the licensure and practice of dentists and dental hygienists.

(b) Ethics and professional responsibility means the aspirational standards by which a profession decides to regulate its behavior in order to distinguish what is legitimate or acceptable in pursuit of their aims from what is not.

(c) The two (2) hours required under subsection (a) are not considered courses that relate specifically to the area of practice management. *(State Board of Dentistry; 828 IAC 1-5-6)*

Rule 6. Dental Hygienists; License Renewal

828 IAC 1-6-1 Renewal requirements; basic life support certification

Authority: IC 25-13-1-5; IC 25-13-1-8; IC 25-14-1-13

Affected: IC 25-13-2-6; IC 25-13-2-9

Sec. 1. (a) Applicants for dental hygiene license renewal must be certified in or successfully complete a course in basic life support.

(b) Courses on health care provider cardiopulmonary resuscitation or cardiopulmonary resuscitation for the professional rescuer meet the requirements of this rule.

(c) At the time of renewal of the license, the applicant must submit, as a part of the renewal application, a sworn statement signed by the applicant attesting that the applicant has fulfilled the requirement to complete a course in basic life support. The board will conduct an audit for compliance in conjunction with the audit conducted under IC 25-13-2-9.

(d) A waiver of the requirement to complete a course in basic life support will only be granted for medical conditions or disabilities that prevent the dental hygienist from complying with the basic life support requirement. All requests for waivers of the basic life support requirement must be submitted in writing with the renewal application. A physician's statement documenting the disability or medical condition must be submitted with the request.

(e) The board will conduct an audit for compliance in conjunction with the audit conducted under IC 25-13-2-9.

(f) In order to comply with IC 25-13-1-8(b)(3), a course in basic life support must be successfully completed during each two (2) year license period.

(g) If a dental hygienist is audited for compliance with the requirement for completion of a basic life support course, at the time of the audit the dental hygienist must submit either:

- (1) a copy of the cardiopulmonary resuscitation card showing the date of issuance and the date of expiration or date it is due for renewal; or
- (2) a copy of the attendance sheet for the course that has been signed by the instructor and includes the date the course was given and certifies that the applicant successfully completed the course.
- (3) Proof of reasonable cause for noncompliance. A waiver will only be granted for medical conditions or disabilities that prevent the dental hygienist from complying with the basic life support requirement. All requests for waivers of the basic life support requirement must be submitted in writing. A physician's statement documenting the disability or medical condition must be submitted with the request.

(State Board of Dentistry; 828 IAC 1-6-1; filed Aug 29, 1997, 8:45 a.m.: 21 IR 107; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Oct 8, 2002, 12:43 p.m.: 26 IR 373)

Rule 7. Inactive Dental License

828 IAC 1-7-1 Inactive status for dentists

Authority: IC 25-14-1-10; IC 25-14-1-13

Affected: IC 25-14-1-27.1; IC 25-14-3-8

Sec. 1. (a) The board may issue a license to the holder of an inactive license under IC 25-14-1-27.1 if the applicant:

- (1) applies in the form and manner required by the board;
- (2) pays the renewal fee and reinstatement fee established in 828 IAC 0.5-2-3; and
- (3) meets the continuing education requirements established under this section.

(b) The applicant must complete fifty percent (50%) of the continuing education that would have been required for renewal under IC 25-14-3-8 during each license period or partial license period the license was inactive.

(c) Not more than twenty-five percent (25%) of the continuing education required under this section may be in the area of practice management.

(d) The continuing education submitted must include a certification program in basic life support. Not more than two (2) credit hours for certification programs in basic life support may be applied toward the credit hour requirement. The board may waive the basic life support requirement for applicants who show reasonable cause.

(e) Documentation verifying the completion of the continuing education must be submitted to the board prior to the reactivation of the applicant's license.

(f) If the applicant's license has been inactive for five (5) or more years, the applicant shall make a personal appearance before the board. *(State Board of Dentistry; 828 IAC 1-7-1; filed Sep 11, 2000, 2:20 p.m.: 24 IR 376; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Oct 8, 2002, 12:40 p.m.: 26 IR 376)*

828 IAC 1-7-2 Inactive status for dental hygienists

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-13-1-17.2; IC 25-13-2-6

Sec. 2. (a) The board may issue a license to the holder of an inactive license under IC 25-13-1-17.2 if the applicant:

- (1) applies in the form and manner required by the board;
- (2) pays the renewal fee and reinstatement fee established in 828 IAC 0.5-2-4; and
- (3) meets the continuing education requirements established under this section.

(b) The applicant must complete fifty percent (50%) of the continuing education that would have been required for renewal under IC 25-13-2-6 during each license period or partial license period the license was inactive.

(c) Not more than twenty-five percent (25%) of the continuing education required under this section may be in the area of practice management.

(d) The continuing education submitted must include a certification program in basic life support. Not more than two (2) credit hours for certification programs in basic life support may be applied toward the credit hour requirement. The board may waive the basic life support requirement for applicants who show reasonable cause.

(e) Documentation verifying the completion of the continuing education must be submitted to the board prior to the reactivation of the applicant's license.

(f) If the applicant's license has been inactive for five (5) or more years, the applicant shall make a personal appearance before the board. *(State Board of Dentistry; 828 IAC 1-7-2; filed Oct 8, 2002, 12:40 p.m.: 26 IR 377)*

ARTICLE 2. DENTAL PROFESSIONAL CORPORATIONS

Rule 1. Corporations; Dental

828 IAC 2-1-1 Name of corporation

Authority: IC 25-14-1-13

Affected: IC 23-1.5; IC 25-14

Sec. 1. (a) Any dental professional corporation whose name does not contain the words "professional services corporation" or "professional corporation" or an abbreviation of those words so named before September 1, 1983, the effective date of IC 23-1.5, is hereby grandfathered and need not contain these words.

(b) The purpose of the name of a dental professional corporation is primarily to identify that corporation and should not be named as to be a means of false and misleading advertising.

(c) Only a professional corporation in which all shareholders are dentists licensed under IC 25-14 may use the term "dental" in its corporate name.

(d) Any dental professional corporation must prominently display its name at each place of business and/or professional practice. *(State Board of Dentistry; 828 IAC 2-1-1; filed Jan 12, 1984, 11:32 am: 7 IR 699; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)*

828 IAC 2-1-2 Applications and renewals

Authority: IC 25-14-1-13

Affected: IC 23-1.5

Sec. 2. Dental corporation applications and renewals shall contain:

- (1) Name and home address of each incorporator.
- (2) Professional license number of each incorporator.

(State Board of Dentistry; 828 IAC 2-1-2; filed Jan 12, 1984, 11:32 am; 7 IR 699; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

ARTICLE 3. ANESTHESIA AND SEDATION

Rule 1. General Requirements

828 IAC 3-1-1 Application; general requirements

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-14-1

Sec. 1. (a) Prior to administering general anesthesia, deep sedation, or light parenteral conscious sedation, a dentist shall obtain from the board a permit that authorizes the dentist to utilize the form of anesthesia or sedation desired.

(b) The board shall issue a permit to utilize the anesthesia or sedation technique requested if the following requirements are met:

- (1) Submission of an application form provided by the board.
- (2) Current licensure by the board.
- (3) Satisfactory evidence of completion of educational and training requirements as defined in section 3 or 5 of this rule.
- (4) Payment of the required fees.
- (5) Submission of satisfactory evidence that all requirements for equipment, personnel, and procedures have been met.
- (6) Submission of an affidavit that the practitioner's office meets the equipment requirements of section 10 or 11 of this rule.
- (7) Submission of proof that:
 - (A) the dentist is trained in and has successfully completed a course in advanced cardiac life support; or
 - (B) the dentist is certified as an instructor in advanced cardiac life support.

(c) An applicant who is granted a general anesthesia-deep sedation permit may administer light parenteral conscious sedation without holding a separate light parenteral conscious sedation permit. *(State Board of Dentistry; 828 IAC 3-1-1; filed Dec 2, 1987, 9:34 a.m.: 11 IR 1287; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2237; filed Oct 14, 1993, 5:00 p.m.: 17 IR 403; filed Aug 20, 1999, 1:50 p.m.: 23 IR 22; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)*

828 IAC 3-1-2 General anesthesia-deep sedation permit

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-1-9-9

Sec. 2. (a) An applicant for a permit to employ general anesthesia or deep sedation must provide satisfactory evidence of completing a minimum of one (1) year of advanced (postdoctoral) training in anesthesiology and related academic

subjects (postdoctoral) beyond the undergraduate dental school level in a residency in anesthesiology or oral surgery which meets the requirements stated in section 3 of this rule.

(b) Satisfactory evidence of completion of advanced training requirements means:

- (1) a certificate of completion of the educational or training program signed by the dean of the board approved dental school or director of the board approved anesthesiology residency from which the training was obtained; or
- (2) an official transcript from the board approved dental school which clearly designates completion of the education or training.

(State Board of Dentistry; 828 IAC 3-1-2; filed Dec 2, 1987, 9:34 a.m.: 11 IR 1287; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2238; filed Sep 21, 1992, 9:00 a.m.: 16 IR 718; filed Oct 14, 1993, 5:00 p.m.: 17 IR 403; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

828 IAC 3-1-3 Training and education programs for general anesthesia and deep sedation

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-1-9-9

Sec. 3. (a) The same level of training is necessary for administration of both deep sedation and general anesthesia.

(b) For the purpose of obtaining a permit to administer general anesthesia or deep sedation, a residency in anesthesiology or a residency in oral and maxillofacial surgery shall meet the following requirements:

- (1) The training program must be full time and be a minimum of one (1) year in duration.
- (2) The program shall be a joint cooperative effort between the training institution's department of anesthesiology and department of dentistry.
- (3) Instruction in both didactic basic science and clinical procedures must be incorporated into the program. This instruction may be given in a seminar or conference format, or may include formal courses.
- (4) The program shall include preanesthetic patient evaluation, administration of anesthesia in the operating room on a daily scheduled basis, postanesthetic care and management, and emergency call.
- (5) Training must include anesthetic management for ambulatory outpatient procedures and the use of inhalation and intravenous sedation techniques.
- (6) The program shall include instruction in pain and pain mechanisms.
- (7) Beginning September 1, 1992, the program shall include training and successful completion of a course in advanced cardiac life support.

(State Board of Dentistry; 828 IAC 3-1-3; filed Dec 2, 1987, 9:34 a.m.: 11 IR 1288; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2239; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

828 IAC 3-1-4 Light parenteral conscious sedation permit

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-1-9-9

Sec. 4. (a) Dentists holding permits to administer general anesthesia-deep sedation will not be required to obtain

a separate permit to administer light parenteral conscious sedation.

(b) In order to obtain a permit to utilize light parenteral conscious sedation, an applicant must meet one (1) of the following educational and training criteria:

(1) The applicant graduated from an approved dental school which included training in conscious sedation techniques at the predoctoral level. This training must meet the requirements of section 5 of this rule.

(2) The applicant completed an intensive postdoctoral training program in the use of light parenteral conscious sedation which meets the requirements of section 5 of this rule.

(c) Satisfactory evidence of completion of educational and training requirements means the following:

(1) A certificate of completion of the educational or training program signed by the dean of the board approved dental school or medical school or director of a board approved hospital program from which the training was obtained.

(2) An official transcript from a board approved dental school which clearly designates completion of the education or training.

(3) A certificate of completion of a continuing education program which meets the requirements of section 5 of this rule. The certificate of completion shall be signed by the director of the continuing education program.

(State Board of Dentistry; 828 IAC 3-1-4; filed Dec 2, 1987, 9:34 a.m.: 11 IR 1289; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2239; filed Sep 21, 1992, 9:00 a.m.: 16 IR 719; filed Oct 14, 1993, 5:00 p.m.: 17 IR 405; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

828 IAC 3-1-5 Training and education programs in light parenteral conscious sedation

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-14-1-3.1

Sec. 5. (a) A predoctoral training program in light parenteral conscious sedation shall meet the following requirements:

(1) Be obtained in a board approved dental school.

(2) Instruction shall include the following areas:

(A) Philosophy of pain control and patient management, including the nature and purpose of pain.

(B) Review of physiologic and psychological aspects of pain and apprehension.

(C) Physiologic monitoring.

(D) Organic pain problems and their management.

(E) Control of preoperative and operative pain and apprehension.

(F) Techniques of administration of light parenteral conscious sedation including intramuscular, intravenous, submucosal, and subcutaneous sedation.

(G) Prevention, recognition, and management of complications and emergencies, including the principles of

advanced cardiac life support. Beginning September 1, 1992, instruction shall include training in and successful completion of a course in advanced cardiac life support.

(H) Interaction of pharmacological and psychological methods.

(I) Control of postoperative pain and apprehension.

(3) Each student must have experience in managing a minimum of ten (10) patients.

(b) A postdoctoral training program in light parenteral conscious sedation shall meet the following requirements:

(1) Include a minimum of sixty (60) hours of instruction.

(2) Include management of at least ten (10) patients.

(3) Include the following in the course content:

(A) Historical, philosophical, and psychological aspects of pain and anxiety control.

(B) Patient evaluation and selection through review of medical history taking, physical diagnosis, and psychological profiling.

(C) Definitions and descriptions of physiological and psychological aspects of pain and anxiety.

(D) A description of the stages of drug-induced central nervous system depression through all levels of consciousness and unconsciousness, with special emphasis on the distinction between the conscious and the unconscious state.

(E) Review of respiratory and circulatory physiology and related anatomy.

(F) Pharmacology of agents used in the conscious sedation techniques being taught, including drug interaction and incompatibility.

(G) Indications and contraindications for the use of the conscious sedation modality under consideration.

(H) Review of dental procedures possible under conscious sedation.

(I) Patient monitoring, with particular attention to vital signs and reflexes related to consciousness.

(J) Importance of maintaining proper records with accurate chart entries recording medical history, physical examination, vital signs, drugs administered, and patient response.

(K) Prevention, recognition, and management of complications and life-threatening situations that may occur during use of conscious sedation techniques, including the principles of advanced cardiac life support. Beginning September 1, 1992, instruction shall include training in and successful

completion of a course in advanced cardiac life support.

(L) The importance of using local anesthesia in conjunction with conscious sedation techniques.

(M) Venipuncture, including anatomy, armamentarium, and technique.

(N) Sterile techniques in intravenous therapy.

(O) Prevention, recognition, and management of local complications of venipuncture.

(P) Description and rationale for the technique to be employed.

(Q) Prevention, recognition, and management of systemic complications of intravenous sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems.

(State Board of Dentistry; 828 IAC 3-1-5; filed Dec 2, 1987, 9:34 a.m.; 11 IR 1290; filed Jun 8, 1992, 5:00 p.m.; 15 IR 2240; readopted filed Apr 11, 2001, 3:21 p.m.; 24 IR 2896)

828 IAC 3-1-6 Required emergency equipment (*Repealed*)

Sec. 6. (Repealed by State Board of Dentistry; filed Dec 24, 1997, 11:35 a.m.; 21 IR 1756)

828 IAC 3-1-6.1 Standard of care; light parenteral conscious sedation

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-14-1-23

Sec. 6.1. (a) The standard of care is a dynamic process impacted upon by technological advances and information gained by clinical and basic research. Therefore, any arbitrary list of equipment, protocols, and/or techniques may become outdated soon after being written. However, the administration of light parenteral conscious sedation carries with it significant risks that mandate basic minimum requirements for patient protection.

(b) The following are the minimum standards of care when light parenteral conscious sedation is utilized:

(1) An appropriate medical history form must be completed and dated for each patient.

(2) The medical history form must be reviewed by the dentist, and all significant responses must be evaluated and noted on the form.

(3) If medical consultation or additional laboratory testing is indicated, it must be obtained prior to initiation of treatment except in an extreme emergency situation.

(4) Physical evaluation and pretreatment vital signs must be taken and recorded on the patient's chart.

(5) In addition to the dentist who has obtained training in resuscitation protocols, there must be present during administration of light parenteral conscious sedation at least one (1) additional person who has successfully completed a course in basic cardiac life support.

(6) Personnel trained in basic cardiac life support shall provide direct supervision and monitoring of the patient during the procedure and until the patient is deemed ready to leave the facility by the dentist.

(7) The patient shall be monitored by the pulse oximeter throughout the procedure.

(8) A blood pressure must be taken periodically throughout the procedure.

(9) The skin color, movement of breathing bag, blood color, or other parameters of adequate blood oxygenation shall be monitored throughout the procedure.

(10) At or before the time of discharge, printed postoperative instructions must be provided to the patient and a responsible adult who will accompany the patient. Vital signs must be stable and the patient must be appropriately responsive before leaving the dentist's office. The patient must be instructed not to operate any vehicle or other potentially hazardous device or engage in a potentially hazardous activity for an appropriate period of time.

(11) It is strongly recommended that the dentist and trained staff hold drills on emergency procedures four (4) times per year. A record that the drills have taken place should be maintained in the office of the dentist. The record should include the date that the drill took place and the names of those persons who participated in the drill. The records may be destroyed after three (3) years.

(12) The dentist shall maintain a record that the dentist has training in resuscitation protocols and that the dentist's staff has maintained, on an annual basis, current training in basic cardiac life support.

(13) The equipment used during the procedure must be in good working order and serviced and certified as necessary.

(State Board of Dentistry; 828 IAC 3-1-6.1; filed Jun 8, 1992, 5:00 p.m.; 15 IR 2242; filed Sep 21, 1992, 9:00 a.m.; 16 IR 721; filed Oct 14, 1993, 5:00 p.m.; 17 IR 406; filed Jun 1, 1994, 5:00 p.m.; 17 IR 2332; filed Dec 24, 1997, 11:35 a.m.; 21 IR 1754; readopted filed Apr 11, 2001, 3:21 p.m.; 24 IR 2896)

828 IAC 3-1-6.5 Standard of care; general anesthesia and deep sedation

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-13; IC 25-14-1-23

Sec. 6.5. (a) The standard of care is a dynamic process impacted upon by technological advances and information gained by clinical and basic research. Therefore, any arbitrary list of equipment, protocols, and/or techniques may become outdated soon after being written. However, the administration of general anesthesia or deep sedation carries with it significant risks that mandate basic minimum requirements for patient protection.

(b) As used in this section, "anesthetic team" means the following:

(1) At least one (1) dentist who holds a permit to administer general anesthesia or deep sedation. All dentists under this section shall be trained and currently competent in advanced cardiac life support.

(2) At least two (2) persons who are employed in the dental office under IC 25-14-1-23(c) or who are dental hygienists licensed under IC 25-13. All such persons who are members of the anesthetic team shall be trained and currently competent in basic life support.

(c) The following are the minimum standards of care when general anesthesia or deep sedation is utilized:

(1) An appropriate medical history form must be completed and dated for each patient.

(2) The medical history form must be reviewed by the dentist, and all significant responses must be evaluated and noted on the form.

(3) If medical consultation or additional laboratory testing is indicated, it must be obtained prior to initiation of treatment, except in an extreme emergency situation.

(4) Physical evaluation and pretreatment vital signs must be taken and recorded on the patient's chart.

(5) A separate anesthetic record must be kept for each anesthetic.

(6) Documentation of the presence and identity of each anesthetic team member throughout the administration of general anesthesia and deep sedation must be maintained.

(7) The anesthetic team must be present during the administration of general anesthesia or deep sedation, and one (1) assistant's sole responsibility is to monitor the patient's vital signs and/or maintain an airway. This section does not relieve the dentist of responsibility for monitoring the patient.

(8) Continuous supervision and monitoring of the patient includes, but is not limited to, oxygenation and ventilation, which must be continuously monitored during the administration of the anesthetic by the following:

(A) Palpation or observation of the reservoir breathing bag.

(B) Monitoring of skin color, mucosa, nail beds, and surgical site for color.

(C) Auscultation of breath and/or heart sounds is recommended.

(D) Pulse oximeter.

(E) Palpation of peripheral pulse.

(F) Blood pressure taken periodically throughout the procedure.

(G) Electrocardiogram (EKG) continuously displayed until the patient leaves the operating area.

(9) The anesthetic team must be clinically aware of any changes in the patient's body temperature. The equipment to take and record the patient's body temperature should be readily available at all times.

(10) At the completion of the anesthetic when continuous monitoring is no longer required, the patient must be transferred to a recovery facility for continual and direct supervision by a person trained in basic cardiac life support.

(11) At or before the time of discharge, printed postoperative instructions must be provided to the patient and a responsible adult who will accompany the patient. Vital signs must be stable and the patient

must be appropriately responsive before leaving the dentist's office. The patient must be instructed not to operate any vehicle or other potentially hazardous device or engage in any potentially hazardous activity for an appropriate period of time.

(12) It is strongly recommended that the dentist and trained staff hold drills on emergency procedures four (4) times per year. A record that the drills have taken place should be maintained in the office of the dentist. The record should include the date that the drill took place and the names of those persons who participated in the drill. The records may be destroyed after three (3) years.

(13) The dentist shall maintain a record that the dentist has training in advanced cardiac life support and that the dentist's staff has maintained, on an annual basis, current training and successful completion of a course in basic life support.

(14) The equipment used during the procedure must be in good working order and serviced and certified as necessary.

(State Board of Dentistry; 828 IAC 3-1-6.5; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2242; filed Sep 21, 1992, 9:00 a.m.: 16 IR 721; filed Oct 14, 1993, 5:00 p.m.: 17 IR 406; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2332; filed Dec 24, 1997, 11:35 a.m.: 21 IR 1755; filed Aug 20, 1999, 1:50 p.m.: 23 IR 23; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

828 IAC 3-1-7 Renewal and reinstatement

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-14-1

Sec. 7. (a) All dentists holding a general anesthesia, deep sedation, or light parenteral conscious sedation permit shall renew the permit biennially at the same time the dental license is renewed by paying the fee required by the board under 828 IAC 0.5-2-2. If the holder of a permit does not renew the permit on or before the renewal date, the permit expires and becomes invalid without any action by the board.

(b) A permit thus invalidated may be reinstated by the board up to three (3) years after such invalidation upon payment to the board by the holder of the invalidated permit of a penalty fee set by the board under 828 IAC 0.5-2-2, plus all past due and current renewal fees. If the lapse of time in revalidating the permit continues beyond three (3) years, the holder of the invalid permit must submit an original application for a permit. *(State Board of Dentistry; 828 IAC 3-1-7; filed Dec 2, 1987, 9:34 a.m.: 11 IR 1291; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2243; filed Oct 14, 1993, 5:00 p.m.: 17 IR 407; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)*

828 IAC 3-1-7.5 Renewal of permit; continuing education

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-14-1; IC 25-14-3

Sec. 7.5. (a) In order to renew a permit to administer general anesthesia, deep sedation, or light parenteral conscious sedation, a dentist shall obtain five (5) hours of continuing education in every license period in the area of anesthesia. This continuing education may include, but is not limited to, a course in advanced cardiac resuscitation protocols. Courses in basic

cardiac life support will not be accepted. The five (5) hours of continuing education required under this section counts toward the completion of continuing education requirements under IC 25-14-3.

(b) This section is effective for the renewal in March 2000 and every two (2) years thereafter. (*State Board of Dentistry; 828 IAC 3-1-7.5; filed Dec 24, 1997, 11:35 a.m.: 21 IR 1756; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 3-1-8 Mandatory reporting (*Repealed*)

Sec. 8. (*Repealed by State Board of Dentistry; filed Sep 21, 1992, 9:00 a.m.: 16 IR 721*)

828 IAC 3-1-9 Display of permit; additional locations; violations

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-1-9-9

Sec. 9. (a) All holders of a permit shall not fail to post and keep conspicuously displayed in plain sight of patients in each dental office where the practitioner practices, the permit.

(b) Prior to practicing in any office, the practitioner must submit to the board an affidavit stating that the office complies with the requirements of section 6 [828 IAC 3-1-6 was repealed filed Dec 24, 1997, 11:35 a.m.: 21 IR 1756.] of this rule and which lists the emergency equipment available and in good working order in the office.

(c) Any violation of this or any other rule shall subject the practitioner to disciplinary sanctions.

(d) Administering general anesthesia, deep sedation, or light parenteral conscious sedation without the appropriate permit or with an expired, voided, revoked, or suspended permit shall subject the practitioner to severe disciplinary penalties. (*State Board of Dentistry; 828 IAC 3-1-9; filed Dec 2, 1987, 9:34 a.m.: 11 IR 1291; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2244; filed Oct 14, 1993, 5:00 p.m.: 17 IR 408; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 3-1-10 Required emergency equipment; general anesthesia and deep sedation

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-14-1

Sec. 10. (a) All practitioners utilizing general anesthesia or deep sedation must have in their offices, as a minimum, the following emergency equipment available and in good working order:

(1) A portable oxygen system capable of delivering positive pressure highflow oxygen, such as:

- (A) an ambu bag;
- (B) a Robert Shaw demand valve or equivalent;
- (C) a full face mask; and
- (D) oral and nasal airways.

(2) An emergency source of power that can be utilized in the event of a power failure and is sufficient to operate the equipment and provide an emergency source of light.

(3) A suction apparatus capable of aspirating gastric contents efficiently from the pharynx or mouth.

(4) An electrocardiograph.

(5) A laryngoscope and assorted blades.

(6) Endotracheal tubes in assorted sizes.

(7) Drugs necessary to follow advanced cardiac life support protocols.

(8) Equipment for continuous intravenous fluid infusion to facilitate drug administration.

(9) A stethoscope.

(10) A body temperature measuring device.

(11) A defibrillator.

(12) A pulse oximeter.

(13) A sphygmomanometer.

(b) Violation of this section subjects the practitioner to disciplinary action under IC 25-1-9-9. (*State Board of Dentistry; 828 IAC 3-1-10; filed Dec 24, 1997, 11:35 a.m.: 21 IR 1756; filed Aug 20, 1999, 1:50 p.m.: 23 IR 24; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

828 IAC 3-1-11 Required emergency equipment; light parenteral conscious sedation

Authority: IC 25-14-1-3.1; IC 25-14-1-13

Affected: IC 25-1-9-9; IC 25-14-1

Sec. 11. (a) All practitioners utilizing light parenteral conscious sedation must have in their offices, as a minimum, the following emergency equipment available and in good working order:

(1) A portable oxygen system capable of delivering positive pressure highflow oxygen, such as:

- (A) an ambu bag;
- (B) a Robert Shaw demand valve or equivalent;
- (C) a full face mask; and
- (D) oral and nasal airways.

(2) An emergency source of power that can be utilized in the event of a power failure and is sufficient to operate the equipment and provide an emergency source of light.

(3) A suction apparatus capable of aspirating gastric contents efficiently from the pharynx or mouth.

(4) A laryngoscope and assorted blades.

(5) Endotracheal tubes in assorted sizes.

(6) Drugs necessary to follow life support protocols.

(7) Equipment for continuous intravenous fluid infusion to facilitate drug administration.

(8) A stethoscope.

(9) A body temperature measuring device.

(10) A pulse oximeter.

(11) A sphygmomanometer.

(b) Violation of this section subjects the practitioner to disciplinary action under IC 25-1-9-9. (*State Board of Dentistry; 828 IAC 3-1-11; filed Dec 24, 1997, 11:35 a.m.: 21 IR 1756; filed Aug 20, 1999, 1:50 p.m.: 23 IR 24; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

ARTICLE 4. MOBILE DENTAL FACILITIES AND PORTABLE DENTAL OPERATIONS

Rule 1. Applicability; Exceptions

828 IAC 4-1-1 Applicability

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 1. This article applies to the operator of a mobile dental facility or portable dental operation who:

- (1) provides dental services; and
- (2) does not have a physically stationary office in the county where the services are provided.

(State Board of Dentistry; 828 IAC 4-1-1; filed May 2, 2002)

828 IAC 4-1-2 Exceptions

Authority: IC 25-14-1-13

Affected: IC 25-13-1-10; IC 25-13-1-11; IC 25-14

Sec. 2. (a) Federal, state, and local governmental agencies are exempt from the requirements of this rule.

(b) Dentists licensed to practice in Indiana who have not registered with the board to operate a mobile dental facility or a portable dental operation may provide dental services through use of dental instruments, materials, and equipment taken out of a dental office without registering if the service is provided as emergency treatment for their patients of record.

(c) Dentists who:

- (1) do not operate a mobile dental facility or portable dental operation; or
- (2) are not employed by or independently contracting with a mobile dental facility or portable dental operation;

may provide treatment for their patients of record in the county in which the dentist maintains a physically stationary office or in a county adjacent to the county in which the dentist maintains a physically stationary office if such services are provided outside the physically stationary office or outside the county of the physically stationary office fewer than thirty (30) days per year.

(d) Dental hygienists who are providing dental hygiene services, instruction, and in-service training in accordance with IC 25-13-1-10 and IC 25-13-1-11 of the dental hygienist practice act are exempt from the requirements of this rule. Furthermore, dental hygienists may provide dental hygiene services, instruction, and in-service training in accordance with IC 25-13-1-10 and IC 25-13-1-11 in a mobile dental facility or portable dental operation. (State Board of Dentistry; 828 IAC 4-1-2; filed May 2, 2002)

Rule 2. Definitions

828 IAC 4-2-1 Applicability

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 1. The definitions in this rule apply throughout this article. (State Board of Dentistry; 828 IAC 4-2-1; filed May 2, 2002)

828 IAC 4-2-2 "Mobile dental facility or portable dental operation" defined

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 2. "Mobile dental facility or portable dental operation" means either of the following:

(1) Any self-contained facility in which dentistry will be practiced, which may be moved, towed, or transported from one (1) location to another.

(2) Any nonfacility in which dental equipment, utilized in the practice of dentistry, is transported to and utilized on a temporary basis at an out-of-office location, including, but not limited to:

- (A) other dentists' offices;
- (B) patients' homes;
- (C) schools;
- (D) nursing homes; or
- (E) other institutions.

(State Board of Dentistry; 828 IAC 4-2-2; filed May 2, 2002)

Rule 3. Registration

828 IAC 4-3-1 Application

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 1. (a) In order to operate a mobile dental facility or portable dental operation, the operator shall register with the board.

(b) The applicant shall complete an application in the form and manner required by the board.

(c) The applicant shall pay the registration fee at the time of application as set by the board by rule.

(d) The applicant shall provide the board with evidence of compliance with the requirements of this rule.

(e) The applicant shall submit proof of radiographic equipment inspection with the application for registration. (State Board of Dentistry; 828 IAC 4-3-1; filed May 2, 2002)

828 IAC 4-3-2 Official business or mailing address

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 2. (a) The operator of a mobile dental facility or portable dental operation shall maintain an official business or mailing address of record, which shall not be a post office box and which shall be filed with the board.

(b) The operator of a mobile dental facility or portable dental operation shall maintain an official telephone number of record, which shall be filed with the board.

(c) The board shall be notified within thirty (30) days of any change in the address or telephone number of record.

(d) All written or printed documents available from or issued by the mobile dental facility or portable dental operation shall contain the official address and telephone number of record for the mobile dental facility or portable dental operation.

(e) When not in transit, all dental and official records shall be maintained at the official office address of record. (State Board of Dentistry; 828 IAC 4-3-2; filed May 2, 2002)

828 IAC 4-3-3 Written procedures; communication facilities; conformity with requirements; driver requirements

Authority: IC 25-14-1-13

Affected: IC 12-15; IC 12-17.6; IC 25-14

Sec. 3. The operator of a mobile facility, mobile unit, or portable dental operation shall ensure the following:

(1) There is a written procedure for emergency follow-up care for patients treated in the mobile dental facility and that such procedure includes arrangements for treatment in a dental facility that is permanently established in the area where services were provided.

(2) The mobile dental facility has communication facilities that will enable the operator thereof to contact necessary parties in the event of a medical or dental emergency. The communications facilities must enable the patient or the parent or guardian of the patient treated to contact the operator for emergency care, follow-up care, or information about treatment received. The provider who renders follow-up care must also be able to contact the operator and receive treatment information, including radiographs.

(3) The mobile dental facility conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, flammability, construction, sanitation, zoning, infectious waste management, universal precautions, OSHA guidelines, and federal Centers for Disease Control Guidelines, and the applicant possesses all applicable county and city licenses or permits to operate the unit.

(4) The driver of the unit possesses a valid Indiana driver's license appropriate for the operation of the vehicle.

(5) No services are performed on minors without a signed consent form from the parent or guardian, which indicates that:

(A) if the minor already has a dentist, the parent or guardian should continue to arrange dental care through that provider; and

(B) the treatment of the child by the mobile dental facility may affect the future benefits that the child may receive under:

(i) private insurance;

(ii) Medicaid (IC 12-15); or

(iii) the children's health insurance program (IC 12-17.6).

(6) A mobile dental facility that accepts a patient and provides preventive treatment, including prophylaxis, radiographs, and fluoride, but does not follow-up with treatment when such treatment is clearly indicated, is considered to be abandoning the patient. Arrangements must be made for treatment services.

(State Board of Dentistry; 828 IAC 4-3-3; filed May 2, 2002)

828 IAC 4-3-4 Physical requirements for mobile dental facility

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 4. The operator shall ensure that the mobile dental facility or portable dental operation has the following:

(1) Ready access to a ramp or lift if services are provided to disabled persons.

(2) A properly functioning sterilization system.

(3) Ready access to an adequate supply of potable water, including hot water.

(4) Ready access to toilet facilities.

(5) A covered galvanized, stainless steel, or other noncorrosive container for deposit of refuse and waste materials.

(State Board of Dentistry; 828 IAC 4-3-4; filed May 2, 2002)

828 IAC 4-3-5 Identification of personnel; notification of changes in written procedures; display of licenses

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 5. (a) The operator shall identify and advise the board in writing within thirty (30) days of any personnel change relative to all licensed dentists and licensed dental hygienists associated with the mobile dental facility or portable dental operation by providing the full name, address, telephone numbers, and license numbers where applicable.

(b) The operator shall advise the board in writing within thirty (30) days of any change in the written procedure for emergency follow-up care for patients treated in the mobile dental facility, including arrangements for treatment in a dental facility, which is permanently established in the area. The permanent dental facility shall be identified in the written procedure.

(c) Each dentist and dental hygienist providing dental services in the mobile dental facility or portable dental operation shall prominently display his or her Indiana dental or Indiana dental hygienist license in plain view of patients. *(State Board of Dentistry; 828 IAC 4-3-5; filed May 2, 2002)*

828 IAC 4-3-6 Identification of location of services

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 6. (a) Each operator of a mobile dental facility or portable dental operation shall maintain a written or electronic record detailing for each location where services are provided:

(1) the street address of the service location;

(2) the dates of each session;

(3) the number of patients served; and

(4) the types of dental services provided and quantity of each service provided.

(b) The written or electronic record shall be made available to the board within ten (10) days of a request by the board. Costs for such records shall be borne by the mobile dental facility. *(State Board of Dentistry; 828 IAC 4-3-6; filed May 2, 2002)*

828 IAC 4-3-7 Licensed dentist in charge

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 7. A mobile dental facility or portable dental operation shall at all times be in the charge of a dentist licensed to practice dentistry in Indiana. A dentist licensed to practice dentistry in Indiana shall be present at all times that clinical services are

rendered. (*State Board of Dentistry; 828 IAC 4-3-7; filed May 2, 2002*)

828 IAC 4-3-8 Prohibited operations

Authority: IC 25-14-1-13

Affected: IC 25-13; IC 25-14

Sec. 8. The operator of a mobile dental facility or portable dental operation is prohibited from hiring, employing, allowing to be employed, or permitting to work in or about a mobile dental facility or portable dental operation, any person who performs or practices any occupation regulated under IC 25-13 or IC 25-14 who is not duly licensed by the board. (*State Board of Dentistry; 828 IAC 4-3-8; filed May 2, 2002*)

828 IAC 4-3-9 Information for patients

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 9. (a) During or at the conclusion of each patient's visit to the mobile dental facility or portable dental operation, the patient shall be provided with an information sheet. If the patient has provided consent to an institutional facility to access the patient's dental health records, the institution shall also be provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long term care facility or school.

(b) An information sheet shall include the following:

- (1) Pertinent contact information as required by this article.
- (2) The name of the dentist and other dental staff who provided services.
- (3) A description of the treatment rendered, including billed service codes and fees associated with treatment, and tooth numbers when appropriate.
- (4) If necessary, referral information to another dentist as required by this article.

(*State Board of Dentistry; 828 IAC 4-3-9; filed May 2, 2002*)

828 IAC 4-3-10 Cessation of operations

Authority: IC 25-14-1-13

Affected: IC 16-39; IC 25-14

Sec. 10. (a) Upon cessation of operation by the mobile dental facility or portable dental operation, the operator shall notify the board within thirty (30) days of the last day of operations in writing of the final disposition of patient records and charts.

(b) If the mobile dental facility or portable dental operation is sold, a new registration application must be filed with the board.

(c) Upon choosing to discontinue practice or services in a community, the operator of a mobile dental facility or portable dental operation shall:

- (1) notify all of the operator's active patients in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that the operator intends to discontinue the mobile dental facility's or portable dental operation's practice in the community; and
- (2) encourage the patients to seek the services of another dentist.

(d) The operator shall make reasonable arrangements with the active patients of the mobile dental facility or portable dental operation for the transfer of the patient's records, including radiographs or copies thereof, to the succeeding practitioner, or, at the written request of the patient, to the patient, in compliance with IC 16-39.

(e) As used in this section, "active patient" applies and refers to a person whom the mobile dental facility or portable dental operation has examined, treated, cared for, or otherwise consulted with during the two (2) year period prior to discontinuation of practice, or moving from or leaving the community.

(f) Nothing in this section supersedes the requirements of IC 16-39. (*State Board of Dentistry; 828 IAC 4-3-10; filed May 2, 2002*)

828 IAC 4-3-11 Renewal of registration

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 11. (a) The registration shall be renewed on March 1 of even-numbered years in the form and manner provided by the board.

(b) The registrant shall pay the registration renewal fee in an amount set by the board by rule. (*State Board of Dentistry; 828 IAC 4-3-11; filed May 2, 2002*)

828 IAC 4-3-12 Failure to comply

Authority: IC 25-14-1-13

Affected: IC 25-14

Sec. 12. Failure to comply with state statutes or rules regulating the practice of dentistry, dental hygiene, and the operation of mobile dental facilities or portable dental operations shall subject the registrant and all practitioners providing services through a mobile dental facility or portable dental operation to disciplinary action. (*State Board of Dentistry; 828 IAC 4-3-12; filed May 2, 2002*)

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

NOTE: Under IC 16-1-1-6, the name of the Indiana State Board of Health is changed to Indiana State Department of Health, effective January 1, 1992.

ARTICLE 1. COMMUNICABLE DISEASE CONTROL

Rule 3. Infectious Waste

410 IAC 1-3-1 "Bedding" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 1. "Bedding" means bedding that has been used for laboratory animals. (*Indiana State Department of Health; 410 IAC 1-3-1; filed Jan 17, 1989, 3:30 p.m.; 12 IR 1382; filed Sep*

18, 1998, 11:38 a.m.: 22 IR 436; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-2 "Carcasses, body parts, blood and body fluids, and bedding of laboratory animals" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 2. "Carcasses, body parts, blood and body fluids, and bedding of laboratory animals" means carcasses, body parts, blood and body fluids in liquid or semiliquid form, and bedding of animals that have been intentionally or are suspected of having been exposed to pathogens in:

- (1) research;
- (2) production of biologicals;
- (3) the in vivo testing of pharmaceuticals; or
- (4) other procedures.

(Indiana State Department of Health; 410 IAC 1-3-2; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 436; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-3 "Container" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 3. "Container" means any portable device or material in which infectious waste is:

- (1) stored;
- (2) transported;
- (3) treated;
- (4) disposed of; or
- (5) otherwise handled.

(Indiana State Department of Health; 410 IAC 1-3-3; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 436; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-4 "Contaminated sharp" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 4. "Contaminated sharp" means an object that is capable of cutting or penetrating the skin and has been in contact with blood or body fluids. The term includes any of the following:

- (1) Hypodermic or suture needle.
- (2) Syringe.
- (3) Scalpel blade.
- (4) Pipette.
- (5) Lancet.
- (6) Broken glass.

(Indiana State Department of Health; 410 IAC 1-3-4; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-5 "Communicable disease" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-2-1

Sec. 5. "Communicable disease" means a communicable disease as defined by rule under IC 16-41-2-1. (Indiana State Department of Health; 410 IAC 1-3-5; filed Jan

17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-5.5 "Department" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 5.5. "Department" means the Indiana state department of health. (Indiana State Department of Health; 410 IAC 1-3-5.5; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-6 "Emergency medical services provider" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-31-3

Sec. 6. "Emergency medical services provider" means a person certified under IC 16-31-3. (Indiana State Department of Health; 410 IAC 1-3-6; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-7 "Facility" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-21-2; IC 16-28-1; IC 16-41-12; IC 16-41-16

Sec. 7. "Facility" means any of the following places where infectious waste activity occurs:

- (1) Hospital.
- (2) Ambulatory surgical center as defined in IC 16-21-2.
- (3) Medical/diagnostic laboratory.
- (4) Blood center as defined in IC 16-41-12.
- (5) Pharmaceutical company.
- (6) Academic research laboratory company.
- (7) Industrial research laboratory.
- (8) Health facility as defined in IC 16-28-1.
- (9) Office and mobile units of a health care provider.
- (10) Diet or health care clinic.
- (11) Office of a veterinarian.
- (12) Veterinary hospital.
- (13) Emergency medical services provider.
- (14) Mortuary.

(Indiana State Department of Health; 410 IAC 1-3-7; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-8 "Health care provider" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-18-2-163; IC 16-41-16

Sec. 8. "Health care provider" means a person employed as, or by, or receiving training from, a provider as defined in IC 16-18-2-163, or by a laboratory, blood center, state institution, or any other facility where the person is likely to have direct contact with blood or body fluids. (Indiana State Department of Health; 410 IAC 1-3-8; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-9 "Infectious waste activity" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 9. "Infectious waste activity" means the:

- (1) generation;
- (2) collection;
- (3) storage;
- (4) transportation;
- (5) treatment; or
- (6) disposal of infectious waste;

as defined in this rule. (*Indiana State Department of Health; 410 IAC 1-3-9; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-3-10 "Infectious waste" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 10. (a) "Infectious waste", except as provided in subsection (b), means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease. The term includes, but is not limited to, the following:

- (1) Contaminated sharps or contaminated objects that could potentially become contaminated sharps.
- (2) Infectious biological cultures, infectious associated biologicals, and infectious agent stock.
- (3) Pathological waste.
- (4) Blood and blood products in liquid and semiliquid form.
- (5) Carcasses, body parts, blood and body fluids in liquid and semiliquid form, and bedding of laboratory animals.
- (6) Other waste that has been intermingled with infectious waste.

(b) The term, as it applies to a home health agency or to services delivered in the home of a hospice patient, includes only contaminated sharps. (*Indiana State Department of Health; 410 IAC 1-3-10; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-3-11 "Mortuary" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16; IC 25-15-2-15

Sec. 11. "Mortuary" means a funeral home as defined in IC 25-15-2-15. (*Indiana State Department of Health; 410 IAC 1-3-11; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-3-12 "Pathological waste" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 12. "Pathological waste" means:

- (1) tissues;
- (2) organs;
- (3) body parts; and

- (4) blood or body fluids in liquid or semiliquid form of humans;

that are removed during surgery, biopsy, or autopsy. (*Indiana State Department of Health; 410 IAC 1-3-12; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-3-13 "Person" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 13. "Person" means any:

- (1) individual;
- (2) facility;
- (3) partnership;
- (4) copartnership;
- (5) firm;
- (6) company;
- (7) association;
- (8) joint-stock company;
- (9) corporation;
- (10) governmental entity; or
- (11) agent.

(*Indiana State Department of Health; 410 IAC 1-3-13; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-3-14 "Secured area" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 14. "Secured area" means an area that is designed and maintained to prevent the entry of unauthorized persons. (*Indiana State Department of Health; 410 IAC 1-3-14; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-3-15 "Semiliquid blood and blood products" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 15. "Semiliquid blood and blood products" means blood and blood products that have intermediate fluid properties and are capable of flowing in a manner similar to a liquid. (*Indiana State Department of Health; 410 IAC 1-3-15; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-3-16 "State board" defined (Repealed)

Sec. 16. (*Repealed by Indiana State Department of Health; filed Sep 18, 1998, 11:38 a.m.: 22 IR 440*)

410 IAC 1-3-17 "Storage" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 17. "Storage" means the containment of infectious waste in such a manner as not to constitute:

- (1) collection;
- (2) treatment;
- (3) transport; or
- (4) disposal.

(Indiana State Department of Health; 410 IAC 1-3-17; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-18 "Veterinarian" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 15-5-1.1; IC 16-41-16

Sec. 18. "Veterinarian" means a person authorized to practice veterinary medicine under IC 15-5-1.1. *(Indiana State Department of Health; 410 IAC 1-3-18; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)*

410 IAC 1-3-19 "Waste" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 19. "Waste" means any solid, liquid, or semiliquid material that:

- (1) is discarded or being accumulated prior to being discarded; or
- (2) has served its natural, biological, medical, or intended purpose and is generally discarded and not reused.

(Indiana State Department of Health; 410 IAC 1-3-19; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-20 "Waste handlers" defined

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 20. "Waste handlers" means any person who handles infectious waste. *(Indiana State Department of Health; 410 IAC 1-3-20; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)*

410 IAC 1-3-21 Applicability of standards

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-11

Sec. 21. (a) This rule applies, without regard to quantity, to defined facilities and persons involved in infectious waste activity.

(b) This rule represents minimum standards, and persons may utilize more stringent standards.

(c) All written policies required under this rule shall, at a minimum, comply with the requirements of IC 16-41-11.

(Indiana State Department of Health; 410 IAC 1-3-21; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-22 Appropriate containment and labeling; effective treatment, transport, or disposal

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 22. For purposes of IC 16-41-16 and this rule, the generator of infectious waste is responsible for the appropriate containment, appropriate labeling, effective treatment, transport, and disposal of infectious waste as required by this rule. A person may provide services to the generator of infectious waste, including the appropriate containment, appropriate labeling, effective treatment, transport, or disposal of infectious waste. Both the generator of infectious waste and the person providing services to the generator of infectious waste are responsible for complying with the requirements set forth in this rule. *(Indiana State Department of Health; 410 IAC 1-3-22; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)*

410 IAC 1-3-23 Written policies, procedures

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16-9

Sec. 23. All persons and facilities subject to this rule shall:

(1) have a written policy and procedures that, at a minimum, contain:

- (A) the requirements contained in this rule; and
- (B) the sanctions, including discipline and dismissal of persons, if warranted, for failure to follow the requirements set forth in this rule;

(2) provide necessary instruction and materials, including protective garments, to implement this rule prior to giving a person an assignment where contact with infectious waste is likely;

(3) maintain a record of such instruction, including an attendance record of a person's participation in the instruction; and

(4) make all records available to the department for inspection under IC 16-41-16-9.

(Indiana State Department of Health; 410 IAC 1-3-23; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-24 Containment

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 24. (a) All persons and facilities subject to this rule shall ensure that infectious waste is at all times contained in a manner that will reasonably protect waste handlers and the public from contracting dangerous communicable disease that may result from exposure to the infectious waste.

(b) All persons and facilities subject to this rule shall place contaminated sharps or contaminated objects that could potentially become contaminated sharps, infectious biological cultures, infectious associated biologicals, and infectious agent stock in containers that are:

- (1) leak proof, rigid, puncture-resistant;
- (2) tightly sealed to prevent expulsion;
- (3) labeled with the biohazard symbol; and

(4) effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

(c) All persons and facilities subject to this rule shall place pathological waste; laboratory animal carcasses, laboratory animal body parts, laboratory animal blood and body fluids, and laboratory animal bedding; human blood; human blood products in liquid or semiliquid form; and human body fluids that are visibly contaminated with blood in containers that are:

- (1) impervious to moisture;
- (2) sufficient strength and thickness to prevent expulsion;
- (3) secured to prevent leakage or expulsion;
- (4) labeled with the biohazard symbol; and
- (5) effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

(Indiana State Department of Health; 410 IAC 1-3-24; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1385; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-25 Storage

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 25. If infectious waste is stored prior to final disposal, all persons subject to this rule shall:

- (1) store infectious waste in a secure area that:
 - (A) is locked or otherwise secured to eliminate access by or exposure to the general public;
 - (B) affords protection from adverse environmental conditions and vermin; and
 - (C) has a prominently displayed biohazard symbol;
- (2) store infectious waste in a manner that preserves the integrity of the container, and is not conducive to rapid microbial growth and putrefaction; and
- (3) disinfect reusable containers for infectious waste each time that they are emptied, unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags, or other devices that are removed with the infectious waste.

(Indiana State Department of Health; 410 IAC 1-3-25; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1385; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-26 Treatment

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 26. (a) All persons and facilities subject to this rule shall either effectively treat infectious waste in accordance with this rule or transport infectious waste off-site for effective treatment in accordance with this rule.

(b) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific infectious waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:

- (1) incineration;

- (2) steam sterilization;
- (3) chemical disinfection;
- (4) thermal inactivation;
- (5) irradiation; or
- (6) discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(c) Except as provided in section 28 of this rule, all persons and facilities subject to this rule may store, transport, and dispose of infectious waste that has been effectively treated in accordance with this rule in the usual manner for waste that is noninfectious. *(Indiana State Department of Health; 410 IAC 1-3-26; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1385; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)*

410 IAC 1-3-27 Protection in transport

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 27. All persons and facilities subject to this rule shall:

- (1) transport infectious waste in a manner that reasonably protects waste handlers and the public from contracting dangerous communicable disease; and
- (2) effectively treat infectious waste in accordance with this rule before it is compacted.

(Indiana State Department of Health; 410 IAC 1-3-27; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1385; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-3-28 Transporting off-site

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16

Sec. 28. (a) All persons and facilities subject to this rule who are transporting infectious waste off-site, whether effectively treated or not, shall:

- (1) mark containers of infectious waste with a label that states the name, address, and telephone number of the generating facility and treatment facility, if applicable; and
- (2) provide a form that contains:
 - (A) the name, address, and telephone number of the generating facility and treatment facility, if applicable;
 - (B) a brief description of the waste and the method of effective treatment; and
 - (C) the signature of a responsible person.

(b) The information required in subsection (a) may be enclosed between the secondary packaging and the outer packaging, when such packaging is used. The outer packaging must contain a biohazard symbol. *(Indiana State Department of Health; 410 IAC 1-3-28; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1386; filed Sep 18, 1998, 11:38 a.m.: 22 IR 440; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)*

410 IAC 1-3-29 Penalties for violation

Authority: IC 16-19-3-4; IC 16-41-16-8

Affected: IC 16-41-16-10

Sec. 29. Penalties for violation of this rule are set forth in IC 16-41-16-10. (*Indiana State Department of Health; 410 IAC 1-3-29; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1386; filed Sep 18, 1998, 11:38 a.m.: 22 IR 440; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

Rule 4. Universal Precautions

410 IAC 1-4-0.5 Applicability of definitions

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 0.5. The definitions in this rule apply throughout this rule. Additionally, the definitions of any other terms contained in the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030) are incorporated by reference. (*Indiana State Department of Health; 410 IAC 1-4-0.5; filed Nov 22, 1993, 5:00 p.m.: 17 IR 753; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-1 "Blood" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 1. "Blood" means human blood, human blood components, and products made from human blood. (*Indiana State Department of Health; 410 IAC 1-4-1; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 753; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-1.1 "Bloodborne pathogens" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 1.1. "Bloodborne pathogens" means pathogenic micro-organisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, HBV and HIV. (*Indiana State Department of Health; 410 IAC 1-4-1.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 753; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-1.2 "Contaminated" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 1.2. "Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface. (*Indiana State Department of Health; 410 IAC 1-4-1.2; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-1.3 "Contaminated laundry" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 1.3. "Contaminated laundry" means laundry which has been soiled with blood or other potentially infectious materials or laundry which may contain sharps. (*Indiana State Department of Health; 410 IAC 1-4-1.3; filed Nov 22, 1993, 5:00*

p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-4-1.4 "Covered individual" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11-4

Sec. 1.4. "Covered individual" means any individual covered by IC 16-41-11-4 whose professional, employment, training, or volunteer activities or duties include any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials. (*Indiana State Department of Health; 410 IAC 1-4-1.4; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-1.5 "Decontamination" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 1.5. "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal. (*Indiana State Department of Health; 410 IAC 1-4-1.5; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-2 "Department" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 2. "Department" means the Indiana state department of health. (*Indiana State Department of Health; 410 IAC 1-4-2; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-2.1 "Employee" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11; IC 22-8-1.1-1

Sec. 2.1. "Employee" has the meaning set forth in IC 22-8-1.1-1. (*Indiana State Department of Health; 410 IAC 1-4-2.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-3 "Employer" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11; IC 22-8-1.1-1

Sec. 3. "Employer" has the meaning set forth in IC 22-8-1.1-1. (*Indiana State Department of Health; 410 IAC 1-4-3; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-3.1 "ERP" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 3.1. "ERP" means expert review panel, as defined in section 8.1 of this rule. (*Indiana State Department of Health; 410 IAC 1-4-3.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4 "Facility" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4. "Facility" means a building or location where an individual can be reasonably anticipated in the course of performing his or her professional, employment, training, or volunteer activities or duties to have skin, eye, mucous membrane, or parenteral contact with potentially infectious materials. (*Indiana State Department of Health; 410 IAC 1-4-4; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4.1 "HBsAg" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4.1. "HBsAg" means the presence of hepatitis B e antigen in human blood as an indicator of high infectivity for hepatitis B virus. (*Indiana State Department of Health; 410 IAC 1-4-4.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4.2 "HBsAg" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4.2. "HBsAg" means the presence of hepatitis B surface antigens in human blood as an indicator of infectivity for hepatitis B virus. (*Indiana State Department of Health; 410 IAC 1-4-4.2; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4.3 "HBV" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4.3. "HBV" means hepatitis B virus. (*Indiana State Department of Health; 410 IAC 1-4-4.3; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4.4 "Health care worker" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4.4. "Health care worker" means any covered individual providing health care for or to a patient during the patient's care or treatment and whose professional, employment, volunteer, or student training duties or activities can be reasonably anticipated to result in skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious

materials. (*Indiana State Department of Health; 410 IAC 1-4-4.4; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4.5 "HIV" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4.5. "HIV" means human immunodeficiency virus. (*Indiana State Department of Health; 410 IAC 1-4-4.5; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4.6 "Other potentially infectious materials" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4.6. "Other potentially infectious materials" means the following:

(1) Human body fluids as follows:

- (A) Semen.
- (B) Vaginal secretions.
- (C) Cerebrospinal fluid.
- (D) Synovial fluid.
- (E) Pleural fluid.
- (F) Pericardial fluid.
- (G) Peritoneal fluid.
- (H) Amniotic fluid.
- (I) Saliva in dental procedures.
- (J) Any body fluid that is visibly contaminated with blood.
- (K) All body fluids where it is difficult or impossible to differentiate between body fluids.

(2) Any unfixed tissue or organ, other than intact skin, from a human, living or dead.

(3) HIV-containing cell or tissue cultures, organ cultures, and HIV or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV. (*Indiana State Department of Health; 410 IAC 1-4-4.6; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4.7 "Parenteral" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4.7. "Parenteral" means piercing the mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, or abrasions. (*Indiana State Department of Health; 410 IAC 1-4-4.7; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-4.8 "Sterilize" defined**Authority: IC 16-41-11-9****Affected: IC 16-41-11**

Sec. 4.8. "Sterilize" means the use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores. (*Indiana State Department of Health; 410 IAC 1-4-4.8; filed Nov 22, 1993, 5:00 p.m.: 17 IR 756; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-5 "Universal precautions" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 5. "Universal precautions" means an approach to infection control in which all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens. (*Indiana State Department of Health; 410 IAC 1-4-5; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 756; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-6 Facility operator responsibilities

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 6. (a) An individual or entity that is a facility operator shall comply with the following:

(1) Inform all health care workers and covered individuals whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of the facility, that it is strongly recommended by the department that all persons who have reason to believe they are at risk of HIV infection should know their HIV status.

(2) Inform all health care workers that it is strongly recommended by the department that all those:

- (A) who perform procedures during which there is a recognized risk of percutaneous injury to the health care worker, and, if such injury occurs, the health care worker's blood may contact the patient's body cavity, subcutaneous tissue, or mucous membranes; and
- (B) who do not have serologic evidence of immunity to HBV from vaccination or from previous infection should know their HBsAg status and, if that is positive, should also know their HBeAg status.

(3) Ensure that the training described in the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030) is provided to all covered individuals whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of the facility.

(4) Ensure that a record is maintained, as required under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request.

(5) Ensure that each covered individual whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of

the facility, is provided appropriate equipment and expendables needed to implement the precautions required under section 8 of this rule and under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030).

(6) Require all health care workers whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of the facility to provide evidence of compliance with the continuing universal precautions education requirements contained in section 7.1 of this rule.

(b) The operator of a facility, if providing services to patients or the public in which there is a risk of skin, eye, mucous membrane, or parenteral contact to human blood or other potentially infectious materials, shall display, or make available to the public, a description of compliance with the requirements contained in subsection (a)(6).

(c) The operator of a facility, if providing services to patients or the public in which there is a risk of skin, eye, mucous membrane, or parenteral contact to human blood or other potentially infectious materials, shall display, or make available to the public, written materials prepared or approved by the department explaining universal precautions and patients' rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the department's duties to investigate. (*Indiana State Department of Health; 410 IAC 1-4-6; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 756; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-7 Facility operator policies

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 7. A facility operator shall develop a written policy in compliance with this rule and the requirements of the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030), that:

(1) requires the use of universal precautions by a covered individual when performing those professional, employment, training, or volunteer activities or duties that include any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials;

(2) provides sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions; and

(3) proscribes the facility operator, or any covered individual acting at or on behalf of the facility, from retaliating against any person, including any professional, employee, trainee, volunteer, or patient, for filing a complaint with the department in good faith under this rule.

(*Indiana State Department of Health; 410 IAC 1-4-7; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 757; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234*)

410 IAC 1-4-7.1 Covered individuals' minimum training and certification requirements

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 7.1. All covered individuals shall comply with the following:

(1) Covered individuals, including health care workers, whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of a facility, must complete the training programs which the facility is required to have employees attend under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030). Approved programs under this rule shall be as follows:

(A) A bloodborne pathogen training session provided by a facility or employer under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030).

(B) Unless the department makes a specific determination to the contrary, any continuing professional education program on current universal precautions techniques that has been accepted or accredited by the applicable professional credentialing or health licensing entity.

(2) Covered individuals who are health care workers shall, either individually or through their employer, upon receipt of a written request by the department, employer, or a patient to whom direct services have been provided, provide evidence of compliance with the requirements of this section.

(Indiana State Department of Health; 410 IAC 1-4-7.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 757; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-4-8 Precautions generally

Authority: IC 16-41-11-9

Affected: IC 16-19; IC 16-41-11

Sec. 8. (a) All covered individuals and health care workers under this rule shall comply with the requirements imposed under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030).

(b) The operator and all covered individuals whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of a facility providing services to patients or other members of the public in which there is a reasonably anticipated risk of skin, eye, mucous membrane, or parenteral contact with human blood or other potentially infectious materials shall also comply with the following requirements:

(1) All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

(2) Heating procedures capable of sterilization must be used when heat stable, nondisposable equipment is sterilized. Heat labile, reusable equipment requiring sterilization must be sterilized by chemical means. Records must be maintained to document the following:

- (A) Duration of sterilization technique.
- (B) Mechanisms for determination of effective sterility.
- (C) Routine monthly equipment maintenance inspections.

These documents must be made available to the department upon request.

(3) Environmental surfaces and equipment not requiring sterilization which have been contaminated by blood or other potentially infectious materials shall be cleaned then decontaminated. Disinfectant solutions shall:

- (A) be a hospital grade, tuberculocidal Environmental Protection Agency (EPA) registered disinfectant; or
- (B) be sodium hypochlorite, five-tenths percent (0.5%) concentration, by volume (common household bleach in ten percent (10%) concentration in water); the solution shall be dated and shall not be used if it is more than twenty-four (24) hours old.

(4) If a patient's diagnosis, laboratory analysis, or medical condition requires additional infection control measures or isolation, those specific measures apply in addition to the requirements of this rule and other requirements found at IC 16-19.

(Indiana State Department of Health; 410 IAC 1-4-8; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 757; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

410 IAC 1-4-8.1 Expert review panel

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 8.1. (a) An HIV infected or HBV infected (and HBeAg positive) health care worker whose practices include digital palpation of a needle tip in a body cavity or the simultaneous presence of the health care worker's finger and needle or other sharp instrument in a poorly visualized or highly confined human anatomic site should either seek the advice of an ERP approved by the department or voluntarily cease these practices.

(b) As used in this rule, "expert review panel" means a group of experts authorized under this rule to provide confidential consultation and advice to HIV and HBV (and HBeAg) infected health care workers as indicated to promote the highest achievable level of safe, professional care. To be deemed authorized, an ERP must be sponsored by an organization which has been approved by the department under subsection (c).

(c) Before any public or private medical, surgical, dental, nursing, or other health care organization may sponsor an authorized ERP under this section, the potential sponsor must be approved by the department as having provided credible assurances that:

(1) the sponsor is capable of establishing specific ERP protocols and procedures that will accomplish the purposes of an ERP under this section; and
(2) it will comply with general protocols to be established and disseminated on request by the department.

(d) The ERP will consist of:

(1) an expert review entity consisting of:

(A) the HIV or HBV infected health care worker's treating physician, either directly or through medical and historical treatment records;

(B) an infectious disease specialist knowledgeable in the epidemiology of HIV and HBV infection;

(C) a health care provider of the same profession as the infected health care provider with expertise in the procedures practiced; and

(D) an infection control expert or epidemiologist; or

(2) any other expert review entity expressly authorized by the department.

(e) An ERP sponsored by an organization approved by the department under subsection (c) will be deemed an authorized ERP.

(f) An ERP shall advise the health care worker whether and how to modify techniques or to cease performing certain procedures. In rendering this advice, the ERP shall consider the past history of the health care worker's technique, and the extent to which, in the context of other indicated procedures with a measurable and unavoidable significant risk to patients, an indicated invasive procedure in the hands of that health care worker does or does not expose patients to the significant risk of HIV or HBV transmission from the health care worker.

(g) The role of the ERP is strictly confidential and advisory to the health care worker.

(h) All proceedings and communications of the ERP shall be confidential. All communications to an ERP shall be privileged communications. Neither the personnel nor any participant in a panel proceeding shall reveal the identity of any health care worker consulting such panel nor any content of communication to the records of or the outcomes of an ERP outside the panel to any person or other entity, other than the health care worker consulting such panel.

(i) No person who participates in an ERP proceeding shall be permitted or required to disclose any information acquired in connection with, or in the course of, the proceeding, any opinion, recommendation, or evaluation of the panel or of any panel member.

(j) The only duty of an ERP is to provide good faith consultation and advice to the HIV or HBV infected health care worker seeking such advice. A health care worker is not, by this rule, relieved of any responsibility, either to himself or herself or to others, for all actions taken or not taken in his or her professional capacity after consulting with an ERP. Neither an ERP nor any member of an ERP is approved by this rule to substitute or assume responsibility for the subsequent actions of the health care worker. No civil or other legal action of any nature shall arise against any member or personnel of an ERP

for any good faith act or statement made in the confines of the panel or proceeding thereof.

(k) Neither an ERP nor any member of an ERP shall, by virtue of their consultation and advice, assume any liability of any kind to the health care worker, his or her patients, or any other person. The personnel and members of an ERP shall be immune from any civil action arising from any determination or recommendation made in good faith in the scope of their duties. *(Indiana State Department of Health: 410 IAC 1-4-8.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 759; errata, 17 IR 1009; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)*

410 IAC 1-4-9 Complaints

Authority: IC 16-41-11-9

Affected: IC 4-15-2-34; IC 4-15-2-35;

IC 16-41-11; IC 25

Sec. 9. A person who believes that this rule has been violated may file a complaint with the department. A complaint must be in writing unless, in the opinion of the department, the violation complained of constitutes an emergency. The department shall reduce an emergency oral complaint to writing. The department shall maintain the confidentiality of the person who files the complaint. The department shall also comply with the following:

(1) The department shall promptly investigate, or cause to be investigated with available resources, all complaints received alleging violations of this rule.

(2) The department shall not disclose the name or identifying characteristics of the person who files a complaint under this rule:

(A) unless the person consents in writing to the disclosure; or

(B) the investigation results in an administrative or judicial proceeding and disclosure is ordered by the administrative law judge or the court.

Confidential communication of the complaint information to the Indiana department of labor for compliance purposes shall not constitute disclosure for the purposes of this rule.

(3) The department shall give a person who files a complaint under this section the opportunity to withdraw the complaint at any time prior to the issuance of an order under subdivision (2)(B).

(4) A person filing a complaint must make a reasonable attempt to ascertain the correctness of any information to be furnished. Failure to make a reasonable attempt may subject that person to other sanctions available at law.

(5) A determination of a substantiated and unresolved violation of this rule by a health care provider licensed under IC 25 shall be referred by the department to the appropriate licensing board through notification of the attorney general's consumer protection division.

(6) In the investigation of a complaint regarding a violation of this rule, the department shall coordinate the investigation, as appropriate, with the state or federal enforcement agency having jurisdiction over the industry or occupation. All complaints alleging violations of the Indiana occupational safety and

health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030) shall be forwarded to the Indiana department of labor.
(Indiana State Department of Health; 410 IAC 1-4-9; filed Oct 6, 1989, 4:20 p.m.: 13 IR 282; filed Nov 22, 1993, 5:00 p.m.: 17 IR 760; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)